

REAL ESTATE OPTION AGREEMENT

20 CHEMICAL WAY

THIS REAL ESTATE OPTION AGREEMENT (this “**Agreement**”) is dated for reference purposes as of October 1, 2010 (the “**Agreement Date**”) and is made and entered into by and between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California (“**Optionee**”), and **CHEMICAL WAY PROPERTIES, LLC**, a California limited liability company (“**Owner**”).

R E C I T A L S

A. Owner is the owner of certain improved real property along with certain related tangible and intangible personal property.

B. Optionee desires to acquire the exclusive option to purchase such property from Owner on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Optionee and Owner hereby agree as follows:

A G R E E M E N T

1. Grant of Option to Purchase; Consideration.

(a) Grant of Option. Subject to the terms and conditions of this Agreement, Owner hereby grants to Optionee the exclusive right and option (the “**Option**”) to purchase the following:

(i) The real property commonly known as 20 Chemical Way, consisting of approximately 1.03 acres of land, having Assessor Parcel Numbers 052-392-240 and 052-392-270, located in the City of Redwood City (the “**City**”), County of San Mateo (the “**County**”), California, as more particularly described in Exhibit A attached hereto (the “**Land**”);

(ii) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the “**Appurtenances**”);

(iii) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services,

refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which are collectively referred to as the “**Improvements**” and, together with the Land and the Appurtenances, the “**Real Property**”); and

(iv) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and Improvements, including, without limitation, (i) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (ii) all existing warranties and guaranties (express or implied), if any, from third parties relating to the Real Property, (iii) Owner's rights under any agreements relating to maintenance and service of the Real Property and other rights relating to the ownership, use and operation of the Real Property (the “**Contracts**”), (iv) the Property Documents (as defined in **Paragraph 10(b)**), and (v) all other intangible rights or claims that run with or relate to the Real Property (collectively, the “**Personal Property**” and, together with the Real Property, the “**Property**”). Notwithstanding the foregoing, (x) Optionee shall not be deemed to have assumed any obligations of Owner under any Contract or other agreement unless Optionee expressly assumes such obligations in writing and (y) the Personal Property shall not include any of the equipment used by the Tenant (as defined in **Paragraph 3(b)** below) that are specific to its business, including the following: all bridge cranes and bridge crane rails, air compressors, welding robots and related accessories, milling equipment, burring equipment, hacksaws, and flyte presses.

(b) Non-Refundable Option Payment. As good and adequate consideration for the grant of the Option, within one (1) business day following the Opening of Escrow (as defined in **Paragraph 4(a)**), Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with First American Title Company (the “**Escrow Holder**”) at its office at 901 Mariners Island Boulevard, Suite 380, San Mateo, California, 94404 (attention: Karen Matsunaga, telephone (650) 638-9106), a cash sum equal to Two Thousand Dollars (\$2,000) (the “**Option Payment**”). Owner acknowledges that the Option Payment constitutes good, adequate and reasonable consideration for the grant of the Option, taking into account, among other things, the Purchase Price (as defined in **Paragraph 3(a)**) for the Property, the appraised value of the Property, and the length of the Option Term (as defined in **Paragraph 2(a)**). In addition, Owner acknowledges that Optionee will incur additional costs and expenses in evaluating the Property during the Feasibility Period (as defined in **Paragraph 10(a)**) and that Optionee's expenditure of such funds constitutes additional and adequate consideration for the grant of the Option. Following the Opening of Escrow the Option Payment shall not be refundable under any circumstances and shall immediately be released to Owner from Escrow. The Option Payment shall be credited to the Purchase Price.

(c) Refundable Initial Deposit. In addition to the Option Payment, concurrent with the deposit of the Option Payment into Escrow, Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with Escrow Holder a cash sum equal to Forty-Eight Thousand Dollars (\$48,000) (the “**Initial Deposit**”). While in Escrow, the Initial Deposit shall be held in an interest-bearing account by the Escrow Holder for the benefit of Optionee. The Initial Deposit and any interest earned thereon while in the Escrow shall be applicable to the Purchase Price (as defined below). If Optionee provides the Notice to Proceed (as defined in **Paragraph 10(a)** hereof) prior to the expiration of the Feasibility Period, the Initial Deposit shall become non-refundable (except if Owner defaults on its obligations herein or as otherwise

expressly provided for herein) and shall remain in Escrow pending the Closing (as defined in **Paragraph 4(c)** hereof) or earlier termination of this Agreement; provided, however, that if Optionee exercises the first Extension Option (as defined in **Paragraph 2(b)**), then the Initial Deposit shall be released from Escrow and paid to Owner concurrently with Optionee's exercise of such Extension Option. If Optionee does not provide the Notice to Proceed prior to the expiration of the Feasibility Period, Owner and Optionee hereby authorize Escrow Holder to immediately release the Initial Deposit (and all of the interest earned thereon) to Optionee at the expiration of the Feasibility Period without any additional documentation required from the parties. Owner releases Escrow Holder from all liability in connection with the release of the Initial Deposit to Optionee in accordance with the preceding sentence, and following such release of the Initial Deposit, neither party shall have any further rights or obligations hereunder (other than those arising from a party's breach of this Agreement or otherwise as expressly provided herein). The Initial Deposit shall be credited to the Purchase Price.

(d) **Additional Deposits.** If this Agreement is not terminated during or at the end of the Feasibility Period, and if Optionee exercises any of its Extension Options as provided in **Paragraph 2(b)**, then concurrently with the exercise of any such Extension Option, Optionee shall deposit into Escrow additional payments (each, an "Additional Deposit") in accordance with the terms and conditions of **Paragraph 2(b)**. The Additional Deposits shall constitute good and adequate consideration for the extension of the Option and once released to Owner shall not be refundable to Optionee (even if Optionee never exercises the Option) except in the event of a breach or default by Owner or the failure of a condition to Closing pursuant to **Paragraph 10**.

(e) **Deposits Defined.** As used in this Agreement, the term "Deposits" means the Initial Deposit and each Additional Deposit, if any, that Optionee deposits in Escrow as provided in **Paragraph 2(b)** below. Each Deposit shall be either an "Applicable Deposit" or a "Non-Applicable Deposit." The Initial Deposit and each Applicable Deposit, if any, made by Optionee that is designated as an Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed "Applicable Deposits" and shall be credited to the Purchase Price at the Closing. Each Additional Deposit, if any, that is made by Optionee and that is designated as a Non-Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed a "Non-Applicable Deposit" and shall not be credited to the Purchase Price.

2. Option Term; Exercise of Option.

(a) **Option Term.** The term of the Option shall commence upon the date that this Agreement has been executed and delivered by both Owner and Optionee, as evidenced by the last date set forth below the signatures of Owner and Optionee hereto (the "Execution Date"), and shall expire on December 27, 2010 (the "Initial Option Term"), unless earlier exercised or extended pursuant to **Paragraph 2(b)** below. As used in this Agreement, the term "Option Term" means the Initial Option Term plus each Extension Period with respect to which Optionee has exercised an Extension Option pursuant to **Paragraph 2(b)**.

(b) **Extension of Option Term.** Notwithstanding **Paragraph 2(a)** or any other provision of this Agreement to the contrary, but subject to **Paragraph 4(d)** below, Optionee shall have the right to extend the Initial Option Term up to twelve (12) times (each, an "Extension Option") for twelve (12) consecutive periods of approximately one-month each (each, an

Extension Period”), as set forth in the table below (the “**Table**”). In order to exercise the first Extension Option (i.e., for the period from December 27, 2010, through January 31, 2011), on or before close of business on December 27, 2010, Optionee shall (i) notify Escrow Holder and Owner that Optionee elects to exercise the first Extension Option, (ii) instruct Escrow Holder to release to Owner the Initial Deposit, and (iii) deposit into Escrow for immediate release to Owner the Additional Deposits in the amount set forth in the Table that corresponds to the first Extension Period. In order to exercise the second (and each subsequent) Extension Option, Optionee shall (x) notify Escrow Holder and Owner on or before the commencement of the applicable Extension Period that Optionee elects to exercise the Extension Option corresponding to such Extension Period and (y) deposit into Escrow for immediate release to Owner the Applicable Deposit or the Non-Applicable Deposit, as the case may be, that corresponds to each such Extension Period, in accordance with the Table below:

<u>Extension Period</u>	<u>Applicable Deposit</u>	<u>Non-Applicable Deposit</u>	<u>Total Deposits</u>
12/27/2010 through 1/31/2011	\$63,000 (comprised of the Initial Deposit of \$48,000, plus an Additional Deposit of \$15,000)	\$31,500	\$94,500
2/1/2011 through 2/28/2011	\$0.00	\$23,625	\$23,625
3/1/2011 through 3/31/2011	\$0.00	\$23,625	\$23,625
4/1/2011 through 4/30/2011	\$0.00	\$23,625	\$23,625
5/1/2011 through 5/31/2011	\$0.00	\$23,625	\$23,625
6/1/2011 through 6/30/2011	\$23,625	\$0.00	\$23,625
7/1/2011 through 7/31/2011	\$23,625	\$0.00	\$23,625
8/1/2011 through 8/31/2011	\$23,625	\$0.00	\$23,625
9/1/2011 through 9/30/2011	\$23,625	\$0.00	\$23,625
10/1/2011 through	\$23,625	\$0.00	\$23,625

10/31/2011			
11/1/2011 through 11/30/2011	\$23,625	\$0.00	\$23,625
12/1/2011 through 12/28/2011	\$23,625	\$0.00	\$23,625

(c) Exercise of Option. The Option shall be exercisable by Optionee in its sole and absolute discretion at any time during the Option Term, and shall be exercised, if at all, by delivery to Owner and the Escrow Holder within the Option Term of written notice (the “**Exercise Notice**”) of Optionee’s exercise of the Option. If Optionee exercises the Option, then (i) Optionee shall not be required to make any Additional Deposits, (ii) Optionee shall be obligated to purchase the Property, subject to the terms and conditions of this Agreement, and (iii) the parties shall proceed to the Closing as provided in **Paragraph 4(c)** and the other applicable provisions of this Agreement. If Optionee exercises an Extension Option, then the Option Term shall be extended for the Extension Period corresponding to such Extension Option. If the Option is not exercised as provided herein on or before the expiration of the Option Term, or if the Option Term is not extended as provided in **Paragraph 2(b)**, then subject to **Paragraph 21** below, the Option shall lapse and be of no further force or effect.

(d) Limitations on Extension Options. Owner acknowledges that Optionee is considering the purchase of the Property, together with certain adjacent properties that Optionee also desires to acquire the option to purchase (collectively, the “**Site**”), in order to redevelop the Site for public purposes (the “**Project**”). In order to proceed with the Project, Optionee may be required to undertake certain environmental and other studies and to obtain certain approvals or clearances that are necessary or appropriate for the redevelopment of the Site, including without limitation the subdivision, re-subdivision or merger of the various parcels comprising the Site, zoning and/or general plan changes, and compliance with the California Environmental Quality Act and applicable regulations and requirements relating to the Project (collectively, the “**Project Approvals**”). Optionee shall work in good faith to obtain the Project Approvals, provided that Optionee makes no assurances that it will be successful in obtaining the Project Approvals or the time required to obtain the Project Approvals. However, if Optionee obtains the Project Approvals, then notwithstanding that Optionee may have one or more unexercised Extension Options at the time it obtains the Project Approvals, the Option Term shall be deemed to have expired on the date that is thirty (30) days after the Project Approvals have been finally approved. As used in this **Paragraph 2(d)**, the Project Approvals shall be deemed to have been “**finally approved**” only after all applicable governmental authorities and public agencies having jurisdiction thereof (collectively, the “**Governmental Authorities**”) have granted, certified, or otherwise issued the Project Approvals and all applicable appeal periods for such Project Approvals shall have expired without an appeal or challenge having been taken or made or, if any such appeal or challenge is taken or made, then upon resolution of that appeal or challenge without any change or revision thereto as originally approved by the Governmental Authorities,

or with only changes or revisions being made thereto which are approved by Optionee in its reasonable discretion.

3. Purchase Price; Relocation Compensation.

(a) Purchase Price. The purchase price for the Property shall be Three Million One Hundred Fifty Thousand Dollars (\$3,150,000) (the "**Purchase Price**"). If Optionee exercises the Option, the Purchase Price shall be paid by Optionee to Owner at the Closing as follows: (a) Optionee shall receive a credit to the Purchase Price equal to the sum of the Option Payment, the Initial Deposit, and all Applicable Deposits made by Optionee, plus all interest accrued on the Deposits while in Escrow, and (b) Optionee shall deposit into the Escrow at or prior to the Closing for delivery to Owner a sum (the "**Closing Payment**") equal to the balance of the Purchase Price.

(b) Relocation Compensation. Owner has informed Optionee that the Property currently is leased to an affiliate of Owner, Continental Tool Company, Inc. (the "**Tenant**"), pursuant to a lease agreement between Owner and the Tenant (the "**Existing Lease**"). If the Closing occurs, then effective as of the Closing (i) Owner shall cause the Existing Lease to be terminated, and (ii) Optionee shall lease back the Property to the Tenant pursuant to a lease agreement executed and delivered by Optionee and the Tenant at the Closing, in the form of **Exhibit F** attached hereto (the "**New Lease**"). Among other things, the New Lease shall grant Optionee the right to terminate the New Lease following notice to the Tenant, as specifically set forth in the New Lease. In addition to the Purchase Price, if the Closing occurs, then provided the Tenant executes and delivers to Optionee the New Lease and the Hazardous Materials Disclosure Certificate contemplated by the New Lease, Optionee shall deposit in Escrow (for release to the Owner upon the Closing) the sum of One Million Dollars (\$1,000,000) (the "**Relocation Compensation**") as full and complete compensation to cover Owner's and Tenant's costs to relocate their businesses to other locations and for disruption to their businesses.

(c) Allocation. Prior to the Closing, Owner shall have the right to allocate some or all of the Relocation Compensation to the Purchase Price by giving written notice thereof to Optionee and Escrow Holder. To the extent that all or any portion of the Relocation Compensation is allocated to the Purchase Price, the Relocation Compensation shall be reduced by like amount.

4. Escrow.

(a) Opening of Escrow. Promptly after the full execution and delivery of this Agreement, the parties will open an escrow (the "**Escrow**") with Escrow Holder and shall deposit with Escrow Holder a copy of this fully executed Agreement, or executed counterparts hereof. The "**Opening of Escrow**" shall be deemed to have occurred on the date following the execution and delivery of this Agreement by Optionee and Owner that Escrow Holder executes the "Acceptance of Escrow Holder" immediately following the signature pages of this Agreement (the "**Acceptance**") and returns to Optionee and Owner such Acceptance.

(b) Instructions and Fees. This Agreement constitutes joint instructions to the Escrow Holder to consummate the purchase in accordance with the terms and provisions hereof; provided, however, that the parties shall execute such additional escrow instructions, not inconsistent with the provisions hereof, as may be deemed reasonably necessary to carry out the intentions of the parties as expressed herein. If the Closing occurs, Optionee shall pay the cost of the title insurance premium for the Title Policy (as defined in **Paragraph 5(c)**) and City and County documentary transfer taxes, if any. If the Closing occurs, Owner shall pay the costs of removing any exceptions to title (other than Permitted Exceptions), as defined in **Paragraph 5(a)**, and Personal Property Encumbrances, as defined in **Paragraph 5(d)**. Escrow Fees, recording fees, and any other closing costs shall be borne by the parties in accordance with the custom of the County.

(c) Closing. The “**Closing**” shall occur on a date selected by Optionee (either following or concurrently with the exercise of the Option), provided that Owner has received at least fifteen (15) days prior written notice of such date (the “**Closing Date**”), and provided further that the Closing Date shall occur not earlier than thirty (30) days after the Opening of Escrow and no later than thirty (30) days after Optionee’s exercise of the Option pursuant to **Paragraph 2(c)** (the “**Outside Date**”). If Optionee exercises the Option but fails to provide Owner with at least fifteen (15) days prior written notice of the Closing Date, then unless otherwise agreed in writing by Optionee and Owner the Closing Date shall be the Outside Date. The Closing shall occur only after (i) Optionee has exercised the Option, (ii) all parties to Escrow have fully performed their respective duties, (iii) Escrow Holder is irrevocably committed to issue to Optionee the Title Policy, and (iv) nothing remains to be done in order to transfer to Optionee fee title to the Real Property other than Escrow Holder’s recordation of Owner’s grant deed (the “**Grant Deed**”) with the County recorder; provided that the Closing shall be deemed to have occurred only upon recordation of the Grant Deed with the County recorder.

5. Title.

(a) Title Review. Within ten (10) days after the Opening of Escrow, Optionee shall obtain a current preliminary title report for the Real Property issued by Escrow Holder, together with legible and complete copies of all underlying documents referenced as exceptions in the Title Report and a plot plan for the Real Property showing the locations of all recorded easements (collectively, the “**Title Report**”). Optionee shall have the right to obtain an ALTA survey or other survey (the “**Survey**”) of the Real Property at Optionee’s sole cost and, if it obtains the Survey, Optionee shall provide Owner with a copy of it. Within fifteen (15) business days following Optionee’s receipt of both the Title Report and the Survey (collectively, the “**Title Documents**”) but not later than November 10, 2010, Optionee shall either approve in writing the exceptions contained in the Title Documents or specify in writing any exceptions or other matters shown on the Survey to which Optionee objects. All title exceptions and Survey matters not objected to, as well as the New Lease and the lien for current taxes not yet delinquent, shall be referred to as “**Permitted Exceptions**,” except for the following (collectively, “**Owner Removal Items**”): liens of deeds of trust or other monetary obligations, judgment liens, and leases or other occupancy agreements (other than the New Lease), none of which shall constitute “**Permitted Exceptions**.” Owner shall have ten (10) days after receipt of such notice to advise Optionee by written notice of any disapproved exceptions or matters which will not be removed from title by Owner prior to the Closing (other than Owner Removal Items,

which Owner shall be required to remove prior to the Closing). If Optionee provides the Notice to Proceed to Owner during the Feasibility Period, the exceptions contained in the Owner's notice (other than Owner Removal Items) shall be deemed additional Permitted Exceptions.

(b) New Exceptions. If any new exceptions or matters are first included in any supplement or update to the Title Report issued after the expiration of the Feasibility Period (collectively, "**New Exceptions**"), Optionee shall notify Owner in writing on or before 5:00 p.m. Pacific Time within three (3) business days after receipt of such supplement if Optionee disapproves some or all of the New Exceptions (the "**New Exceptions Objection Notice**"). If Optionee timely delivers to Owner a New Exceptions Objection Notice, Owner shall thereafter have five (5) business days to determine whether Owner is willing to remove the New Exceptions (the "**Decision Period**") and deliver notice to Optionee. If at the end of the Decision Period Owner is unwilling to remove the New Exceptions, and if Optionee is unwilling to waive its objections, then either party may terminate this Agreement upon notice to the other. If Optionee waives its objections and elects to proceed to Closing, the New Exceptions shall be deemed to be Permitted Exceptions and Optionee shall not be entitled to any reduction in the Purchase Price. In the event that Owner fails to deliver Owner's response notice to Optionee as set forth in this Paragraph 5(b), Owner shall be deemed to have elected not to remove the New Exceptions. If prior to the end of the Decision Period Owner advises Optionee that Owner is willing to remove the New Exceptions, then Owner thereafter shall cause the New Exceptions to be removed by the Closing Date. Notwithstanding the foregoing, Owner shall be required to remove at its sole cost any New Exceptions that constitute Owner Removal Items, irrespective of whether Optionee expressly has objected to such exceptions or items.

(c) Title Delivered at Closing. By executing the Grant Deed, Owner shall convey to Optionee (or to such other person or entity as Optionee may designate) marketable fee title to the Real Property subject only to the Permitted Exceptions. Immediately following recordation of the Grant Deed, Escrow Holder shall issue to Optionee an ALTA extended coverage owner's policy of title insurance (2006 form), with coverage in the amount of the purchase price for the Real Property, showing fee simple title to the Real Property vested in Optionee, subject only to the Permitted Exceptions (the "**Title Policy**").

(d) Personal Property Encumbrances. To the extent that any of the Personal Property is encumbered by Uniform Commercial Code financing statements or other liens or encumbrances ("**Personal Property Encumbrances**"), Owner shall cause such Personal Property Encumbrances to be released or otherwise removed prior to the Closing.

6. Liquidated Damages. OPTIONEE AND OWNER AGREE THAT IF OPTIONEE EXERCISES THE OPTION PURSUANT TO **PARAGRAPH 2(c)** AND THEREAFTER DEFAULTS ON ITS OBLIGATION TO PURCHASE THE PROPERTY PURSUANT HERETO, THE DAMAGES TO OWNER WOULD BE DIFFICULT AND IMPRACTICAL TO DETERMINE. ACCORDINGLY, IN THE EVENT OF SUCH DEFAULT BY OPTIONEE, OPTIONEE AND OWNER HAVE AGREED TO FIX AS LIQUIDATED DAMAGES THE DEPOSITS, BUT ONLY TO THE EXTENT THE DEPOSITS HAVE THERETOFORE BEEN DEPOSITED WITH ESCROW HOLDER OR PAID DIRECTLY TO OWNER, AND SUCH DEPOSITS SHALL BE RETAINED BY OWNER AS LIQUIDATED DAMAGES, AND SHALL CONSTITUTE OWNER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH

DEFAULT. OWNER'S RETENTION OF SUCH DEPOSITS AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY UNDER CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO OWNER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. OWNER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTIONS 1680 AND 3389. OWNER AGREES THAT THESE LIQUIDATED DAMAGES SHALL BE IN LIEU OF ANY OTHER MONETARY RELIEF OR OTHER REMEDY, INCLUDING WITHOUT LIMITATION SPECIFIC PERFORMANCE, TO WHICH OWNER OTHERWISE MIGHT BE ENTITLED UNDER THIS AGREEMENT, AT LAW OR IN EQUITY. OPTIONEE AND OWNER SPECIFICALLY ACKNOWLEDGE THEIR AGREEMENT TO THE FOREGOING LIQUIDATED DAMAGES PROVISION BY INITIALING THIS PARAGRAPH IN THE APPROPRIATE SPACES PROVIDED BELOW.

Optionee's Initials PU Owner's Initials df

The above Liquidated Damages provisions shall not limit Optionee's liability to the extent set forth in this Agreement for any damage to persons or property to the extent caused by Optionee or any Optionee's Authorized Parties (as defined in **Paragraph 9(a)**), which liability shall be in addition to the liquidated damages referenced above.

7. Prorations. If the Closing occurs, all income, if any, and expenses of the Real Property shall be apportioned as of 12:01 a.m., on the day of Closing as if Optionee were vested with title to the Real Property during the entire day upon which Closing occurs. Notwithstanding the generality of the preceding sentence, specific items of income and expense shall be prorated as follows:

(a) Taxes and Assessments. Owner shall pay any delinquent real property taxes and assessments relating to the Real Property. Non-delinquent real estate taxes and assessments imposed by any governmental authority shall be prorated as of the Closing Date based upon the tax bill(s) received for and applicable to the period(s) in which the Closing Date occurs; or, to the extent such tax bill(s) and applicable amount(s) are not available by the Closing Date, based on the most recent ascertainable assessed values and tax rates. Owner shall receive a credit for any prepaid taxes and assessments paid by Owner attributable to the period prior to the Closing to the end of the applicable taxing period.

(b) Utility Charges. Prepaid water, sewer, and other utility charges shall be credited to Owner, and unpaid water, sewer, and other utility charges accruing prior to the Closing shall be credited to Optionee. Optionee shall credit to the account of Owner all refundable cash or other deposits posted by Owner with utility companies serving the Real Property or, at Optionee's option, Owner shall be entitled to receive and retain such refundable cash and deposits.

(c) Contracts. Any amounts owing under the Contracts that are assigned to and assumed by Optionee pursuant to **Paragraph 15(a)** shall be prorated as of the Closing Date.

(d) Additional Deposits. Any Non-Applicable Deposits made by Optionee pursuant to **Paragraph 2(b)** shall not be prorated. By way of example, if pursuant to **Paragraph**

2(b) Optionee makes a Non-Applicable Deposit of Twenty-Three Thousand Six Hundred Twenty Five Dollars (\$23,625) on February 1, 2011 (for the Extension Period ending on February 28, 2011), and if the Closing occurs on February 15, 2011, then there shall be no proration of such Non-Applicable Deposit notwithstanding that the Closing occurs prior to the expiration of the applicable Extension Period. The Applicable Deposits (together with the Initial Deposit and the Option Payment) shall be fully credited to the Purchase Price irrespective of when the Closing occurs.

(e) Other Amounts. Any other operating expense or other items pertaining to the Real Property which are customarily prorated between buyers and sellers of real property in the County shall be prorated between Owner and Optionee in accordance with local custom.

(f) Post-Closing Adjustments. Except as otherwise provided in this Agreement, any revenue or expense amount that cannot be ascertained with certainty as of the Closing Date shall be prorated on the basis of the parties' reasonable estimates of such amount, and shall be the subject of a final proration after the Closing. Owner and Optionee agree that, to the extent items are prorated or adjusted at Closing on the basis of estimates, or are not prorated or adjusted at Closing pending actual receipt of funds or compilation of information upon which such prorations or adjustments are to be based, each of them will, upon a proper accounting, pay to the other such amounts as may be necessary such that Owner will receive the benefit of all income and will pay all expenses of the Property prior to the Closing Date and Optionee will receive all income and will pay all expenses of the Property after the Closing Date. Owner and Optionee agree that as soon as reasonably possible, but in no event later than April 15, 2012, the parties shall undertake a final master reconciliation of taxes and other operating expenses with respect to the Property. Such reconciliation shall be final.

(g) Existing Lease. Owner and the Tenant shall prorate all operating expenses, taxes, and other expenses and costs owing under the Existing Lease outside of Escrow. Optionee shall have no liability for any such expenses or costs relating to any period prior to the Closing.

8. Possession. Pursuant to the New Lease, Tenant shall retain possession of the Property as of the Closing Date. At the Closing, Owner shall deliver exclusive possession of the Property to Optionee subject only to the rights of the Tenant under the New Lease.

9. Authorization to Enter; Cooperation.

(a) Authorization to Enter. From and after the Execution Date, Optionee and its agents, employees, contractors, consultants, and other designees (collectively, "**Optionee's Authorized Parties**") may, upon three (3) business days' prior written notice, enter upon the Real Property to conduct any activity and perform any investigation, test, study or analysis for the purpose of determining the feasibility of the Real Property for Optionee's planned development of the Real Property, including, but not limited to, soils studies, Phase I and/or Phase II Hazardous Materials (as defined in **Paragraph 12(d)**) studies, engineering and soil studies, tree surveys, archeological studies, biological studies, utilities studies, hydrology studies and any other matters necessary to evaluate the suitability of the Real Property for Optionee's contemplated purposes. Notwithstanding the above (i) no invasive testing shall be done without

Owner's written consent which shall not be unreasonably withheld (it being agreed that Owner shall respond to Optionee's written request for consent within three (3) business days after receipt of such request), and (ii) Optionee shall provide Owner with copies of all results and reports received as a result of any investigation, test, study, or analysis regarding the physical condition of the Property done by any third party consultants on behalf of Optionee. Optionee shall pay all costs with respect to such studies and tests. Optionee's Authorized Parties may bring such equipment on the Real Property as is necessary or appropriate to make such studies. Optionee shall maintain, repair and restore the Real Property as necessary to remedy any damage to the Real Property to the extent caused by the feasibility activities of Optionee's Authorized Parties on the Real Property, shall take reasonable precautions to minimize interference with the activities of Owner on the Real Property, and shall indemnify and hold harmless Owner and Owner's Parties (as hereinafter defined in **Paragraph 13(d)**) from and against all suits, causes of action, claims, liabilities, damages, losses, fees, fines, costs and expenses including attorneys' and experts' fees (collectively, "**Claims**"), for any injury, loss, or damage to persons or property occurring in connection with the inspections and studies conducted by Optionee's Authorized Parties, except that Optionee shall have no liability for and no obligation to remedy any conditions or defects on or under the Real Property (i) not caused by a Optionee Authorized Party including those that are discovered by a Optionee Authorized Party during its investigations and inspections, or (ii) resulting from the acts or omissions of Owner, or any past and/or present occupant of the Real Property or their respective agents, engineers, contractors, consultants and representatives. Optionee's obligations to indemnify and hold Owner and Owner's Parties harmless pursuant to this **Paragraph (9a)** shall survive the termination of this Agreement and the Closing.

(b) **Cooperation.** Owner shall provide Optionee and its consultants with the opportunity to consult with Owner's environmental consultants and to review any work product prepared by or in the possession of such consultants provided Owner is not legally or contractually precluded from doing so. Owner shall cooperate in all reasonable respects in connection with Optionee's evaluation of the environmental condition of the Property and any required clean-up or remediation of Hazardous Materials on, at or under the Property, including without limitation participating in meetings with applicable governmental authorities and executing any authorizations or other documents required for Optionee to obtain access to documents or other information relating to the condition of the Property.

10. **Conditions of Optionee's Performance.** Optionee's obligation to close escrow under this Agreement is subject to Optionee's written approval of the following conditions at or before the earlier of the Closing or such earlier time expressly provided below in this **Paragraph 10**, but Optionee shall have the right to waive any such condition in writing within the time period specified in such condition. If any of the following conditions is not satisfied or waived in writing by Optionee, then Optionee shall be entitled to terminate this Agreement, in which event all Deposits shall be returned immediately to Optionee with interest earned thereon, without any further obligation on the part of either Optionee or Owner, subject to any remedies Optionee may have to the extent that a failure of condition also constitutes a default by Owner under this Agreement.

(a) **Feasibility Study.** Optionee may, in Optionee's sole discretion, approve or disapprove the condition of the Real Property and the feasibility of using the Real Property for

Optionee's intended purposes (the "**Feasibility Study**") at any time during the period (the "**Feasibility Period**") commencing on the Opening of Escrow and ending at 5:00 p.m. on the date that is ninety (90) days after the Opening of Escrow. During the Feasibility Period, Optionee shall have the right to deliver to Owner written notice (the "**Notice to Proceed**") of Optionee's approval of the Feasibility Study and election to proceed with the purchase of the Property. Optionee shall be deemed to have disapproved the Feasibility Study if Optionee does not deliver the Notice to Proceed to Owner during the Feasibility Period. If Optionee disapproves of or is deemed to have disapproved of the Feasibility Study, then the Deposits previously made by Optionee shall be immediately returned to Optionee.

(b) Documents. To the extent Owner has not previously done so, within three (3) days after the Execution Date, Owner shall provide Optionee with copies of all current Contracts, soil and hydrology reports, environmental or toxic material reports, engineering reports, biological studies, archeology reports, improvement plans and specifications, engineering studies, traffic studies, earthquake studies, site history investigation documents, surveys, civil, architectural, landscape and grading plans, working drawings, leases (including all amendments, assignments and other modifications thereof), copies of title insurance policies for the Property, copies of all warranties and guaranties pertaining to the Property, unrecorded subordination agreements, unrecorded non-disturbance agreements, subleases, estoppel certificates, licenses, agreements affecting the Real Property, and other information relating to the Real Property, whether in final form or in process, to the extent such documents are in Owner's possession (collectively, the "**Property Documents**"). Notwithstanding the above, Property Documents shall not include any internal reports or documentation generated for the sole use of the members, shareholders, partners, trustees and other constituents of Owner, letters of interest, purchase agreements, expired leases, appraisals, or entity governing documents. Following the delivery of all Property Documents to Optionee, Owner shall provide Optionee with written notification that all Property Documents have been delivered by Owner. Optionee shall have the opportunity to review and approve all Property Documents during the Feasibility Period. If any new Property Documents are first obtained by Owner after the Execution Date, Owner immediately shall deliver such new Property Documents to Optionee. Optionee shall have the right to use all Property Documents, and the Purchase Price includes payment for all Property Documents. Optionee shall not disclose any information contained in the Property Documents, provided that Optionee shall have the right to disclose such information to the following parties and in the following circumstances: (i) Optionee is required to disclose information in the Property Documents in response to a subpoena or other regulatory, administrative or court order, (ii) independent legal counsel to Optionee delivers a written opinion to Owner that Optionee is required to disclose such information, (iii) to actual or potential assignees of this Agreement, (iv) in response to a request for discovery in any legal or administrative proceeding; (v) in connection with any litigation or other dispute by or among the parties to this Agreement; (vi) to the extent any information contained in the Property Documents is or becomes part of the public domain through no fault of Optionee; (vii) in connection with obtaining, administering, and enforcing rights with respect to insurance (including without limitation underwriting insurance, adjusting claims or otherwise procuring, adjusting, challenging, administering, disputing or litigating any issues concerning insurance); (viii) to Optionee's attorneys, accountants, and consultants, and contractors who are involved in due diligence activities or the consummation of the transactions contemplated by this Agreement; or (ix) to the extent required by applicable law. If Optionee fails to exercise the Option as and when

required, or if Optionee exercises the Option but fails to close escrow as and when required by this Agreement, at Owner's written request Optionee shall immediately return all Property Documents and copies thereof to Owner.

(c) Owner's Representations and Warranties. Owner's representations and warranties as set forth in **Paragraph 12** below shall be true and correct as of, and shall be deemed remade by Owner, as of the Agreement Date, as of the expiration of the Feasibility Period, and as the Closing Date.

(d) Owner's Performance. Owner shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Owner's part at or prior to the Closing.

(e) Title Policy. Escrow Holder shall be ready willing and able to issue to Optionee the Title Policy at the Closing.

(f) Owner's Deliveries. Owner shall deliver into the Escrow the following documents (collectively, the "**Closing Documents**"): (i) the Grant Deed (in the Escrow Holder's standard form) for recordation and delivery to Optionee at the Closing, (ii) an affidavit as required by the Foreign Investment in Real Property Tax Act (in the Escrow Holder's standard form) and a form 593-C as required by California law, (iii) escrow instructions in form and substance consistent with the requirements herein, (iv) an Assignment and Bill of Sale in the form of **Exhibit C** attached hereto (the "**Assignment**"), duly executed by Owner, (v) the New Lease, duly executed by the Tenant, (vi) such duly executed owner's affidavits as may be required by the Escrow Holder to issue the Title Policy at Closing, (vii) all prorations, fees and other amounts to be paid by Owner at Closing, provided that in lieu of depositing such amounts in Escrow, such amounts shall be withheld from the Closing Payment delivered to Owner in accordance with Owner's approved closing statement; and (viii) such evidence as the Escrow Holder may reasonably require as to the authority of the person or persons executing documents on behalf of Owner; and (x) such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

(g) Legal Parcel. The Land shall consist of one or more legal parcels as of the Closing. Notwithstanding anything in this Agreement to the contrary, the condition precedent set forth in this subparagraph may not be waived.

(h) Environmental Condition. There shall exist no environmental matter having a material adverse impact on the Property that was known to Owner on the Agreement Date and was not disclosed in writing to Optionee within three (3) days after the Execution Date as provided in **Paragraph 10(b)** and **Schedule 12(d)** of this Agreement.

(i) Leases. Other than the New Lease, there shall exist no other leases, tenancies, or occupancy agreements affecting the Real Property or any part of the Real Property.

(j) Material Conditions. Each of the above conditions is for the sole benefit of Optionee and each of such conditions is deemed to be material to and of the essence of this Agreement.

11. Conditions of Owner's Performance. All of Owner's obligations hereunder are expressly conditioned on the satisfaction at or before the Closing, or at or before such earlier time as may be expressly stated below, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Owner, at Owner's option):

(a) Optionee's Representations and Warranties. Optionee's representations and warranties as set forth in **Paragraph 13** below shall have been true and correct as of the Execution Date and the Closing Date.

(b) Optionee's Performance. Optionee shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Optionee's part at or prior to the Closing.

(c) Optionee's Deliveries. Optionee shall have delivered to Escrow Holder all instruments and documents required on Optionee's part to effectuate this Agreement and the transactions contemplated hereby, including without limitation, the New Lease, duly executed by Optionee, escrow instructions in form and substance consistent with the requirements herein, a closing statement consistent with the terms of this Agreement, and a certificate of acceptance of the Grant Deed as required by Section 27281 of the California Government Code, and Optionee shall have timely deposited all funds to be deposited into the Escrow pursuant hereto, including without limitation the Closing Payment.

12. Owner's Representations, Warranties and Covenants. Owner hereby represents, warrants and covenants to Optionee and its assigns, and makes the representations, warranties and covenants set forth in this **Paragraph 12** for the benefit of Optionee and its successors and assigns. Owner shall notify Optionee in writing immediately if Owner becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Owner after the Agreement Date. Owner shall indemnify, protect, defend and hold harmless Optionee from and against all Claims arising from or relating to any misrepresentation made by Owner in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Owner is the sole owner of fee title to the Real Property and has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement by Owner shall have been duly authorized. No approvals, authorizations or consents of any public body or of any person other than Owner's shareholders, partners or members, as applicable, are necessary in connection herewith. This Agreement and all other agreements, documents and instruments to be executed in connection herewith have been effectively authorized by all necessary action, corporate, partnership or otherwise, including, without limitation, authorizations of Owner's Board of Directors, shareholders or members, as applicable, which authorizations remain in full force and effect, have been duly executed and delivered by Owner, and no other corporate, partnership or other proceedings on the part of Owner are required to authorize this Agreement and the transactions contemplated hereby.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Owner do not and will

not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon the Property or any other assets of Owner by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Owner is a party or which is or purports to be binding upon Owner or the Property or which otherwise affects Owner or the Property, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Owner in accordance with its terms.

(c) Documents. Owner has provided or will provide Optionee pursuant to **Paragraph 10(b)** with copies of all Property Documents in Owner's possession. All Property Documents delivered or to be delivered to Optionee by Owner and its agents are complete originals or true and correct copies thereof. If Optionee elects not to purchase the Property, Optionee will return to Owner all Property Documents previously delivered to Optionee by Owner. Owner shall deliver as and when required all notices relating to the Property to the extent required by applicable laws or any covenants, conditions or restrictions affecting the Property.

(d) Hazardous Materials. Owner and the Owner Related Parties have not spilled, discharged or released any Hazardous Materials onto, under or about the Property. To Owner's knowledge without inquiry, there are no above ground or underground storage tanks, barrels, drums, pits, wells, lagoons or other containers (collectively, "**Tanks**") or any Hazardous Materials (as defined below) on, in, about or under or within 2,000 feet of the Real Property, including any ground water beneath and surface water thereon (whether by virtue of any storage, release or disposal on, in or under the Real Property or migration to the Real Property), except for the specific Tanks and/or Hazardous Materials and quantities thereof as are disclosed by Owner on **Schedule 12(d)** attached hereto and incorporated herein (the "**Disclosed Hazardous Materials**"). As used herein, the term "**Hazardous Materials**" shall mean any substance, material, waste, chemical, mixture or compound which: (i) is flammable, ignitable, radioactive, hazardous, toxic, corrosive or reactive, and which is regulated under law or by a public entity, (ii) is a "Hazardous Substance" as defined or listed under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, or any regulations promulgated thereunder, (iii) is crude oil, petroleum, natural gas, or distillates or fractions thereof, and/or (iv) damages or threatens to damage health, safety, or the environment, or is required by any law or public entity to be remediated, including remediation which such law or public entity requires in order for property to be put to any lawful purpose. The provisions of this **Paragraph 12(d)** shall survive the Closing.

(e) Compliance. Except as specifically set forth in **Schedule 12(d)** of this Agreement, to the best of Owner's knowledge without inquiry the Real Property is not in violation of any federal, state or local law, statute, regulation or ordinance, and there are no special assessments, condemnation actions or other legal actions or proceedings pending or threatened against the Real Property or any part thereof.

(f) Bankruptcy. Owner is not the subject of a voluntary or involuntary bankruptcy, reorganization, or insolvency petition.

(g) Work Contracts. At the Closing, there will be no outstanding amounts owing by Owner under any Contracts for any improvements to the Real Property. Owner shall cause to be discharged all mechanics' and materialmen's liens arising from any labor and materials furnished prior to the Closing, and shall have eliminated from title all exceptions, claims, and defects other than the Permitted Exceptions. No person or entity holds any rights to purchase or otherwise acquire all or any portion of the Property (or interest therein), including pursuant to any Option Agreement, option, right of first offer, right of first refusal, gift or other agreement.

(h) Other Contracts. **Exhibit E** to this Agreement sets forth a complete and accurate list of Contracts (other than insurance policies) affecting the Property, and neither Owner nor any provider under any of the Contracts has asserted any breach or default thereunder. Owner has not received any written notice of a Owner default and Owner has no knowledge of any existing Owner defaults under the Contracts. Owner has not received any written notice of a default by another party, and Owner has no knowledge of any existing other party default under the Contracts. Prior to Closing, Owner shall not amend any existing Contract or enter into any new Contract affecting the Property that will survive the Closing, or that would otherwise affect the use, operation or enjoyment of the Property after Closing, without Optionee's prior written approval.

(i) No Commitments. Owner has not made any commitments to any governmental authority, to any adjoining property owner, or to any other organization, group, individual or entity relating to the Real Property which would impose any obligations upon Optionee to make any contributions of money or land or to install or maintain any improvements.

(j) Leases. Owner is the current landlord under the Existing Lease. Owner is not in default under the Existing Lease and to Owner's knowledge no default on the part of Tenant exists (and no event has occurred that with the passage of time or the giving of notice, or both, that would be a default) under the Existing Lease. Owner has not assigned or otherwise transferred any interest in the Existing Lease to any other party and Owner has not consented to any sublease or assignment of the Existing Lease by the Tenant. As of the Agreement Date and as of the Closing, there shall be no outstanding leasing costs, including without limitation commissions, free rent, tenant improvement costs or allowances, or other tenant inducements or concessions owing by the landlord under the Existing Lease. At the Closing, provided Optionee deposits in Escrow the Purchase Price and the Relocation Compensation in accordance with this Agreement, Owner shall assume all obligations to provide Relocation Benefits (as defined in **Paragraph 25(a)**) to the Tenant.

(k) Rights of Third Parties. Owner has not alienated, encumbered, transferred, leased, assigned or otherwise conveyed its interest in the Property or any portion thereof except as set forth in the Title Report, and shall not enter into any such agreement that will not be removed prior to the Closing. There are no claims pending or threatened by any third party against Owner or any Owner Party relating to the Property.

(l) Binding Agreement. This Agreement constitutes the legal, valid and binding obligation of Owner and is enforceable in accordance with its terms against Owner subject only to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

(m) Support of Project. As a material inducement to Optionee's execution of and performance under this Agreement, for so long as this Agreement remains in effect and is not terminated prior to the Closing, Owner shall not challenge, oppose or impede, either directly or indirectly, the Project, and shall use commercially reasonable efforts to cause the Owner's Parties not to challenge, oppose or impede the Project.

(n) Other. Neither this Agreement, nor any of the exhibits or schedules hereto, nor any document, certificate or statement referred to herein or furnished to Optionee in connection with the transaction contemplated herein (whether delivered prior to, simultaneously with, or subsequent to the execution of this Agreement) contains any untrue statement of material fact or, omits to state a material fact in any way concerning the Property or otherwise affecting or concerning the transaction contemplated hereby.

13. Optionee's Representations and Warranties. Optionee hereby makes the representations and warranties set forth in this **Paragraph 13** for the benefit of Owner and its successors and assigns. Optionee shall notify Owner in writing immediately if Optionee becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Optionee after the Agreement Date. Optionee shall indemnify, protect, defend and hold harmless Owner from and against all Claims arising from or relating to any misrepresentation made by Optionee in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Optionee has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement by Optionee has been duly authorized.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Optionee do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the property or assets of Optionee by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Optionee is a party or which is or purports to be binding upon Optionee or which otherwise affects Optionee, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Optionee in accordance with its terms.

(c) Litigation. There are no claims, actions, suits or proceedings continuing, pending or threatened, which would materially adversely affect Optionee or this transaction.

(d) As-Is Purchase; Release of Certain Claims. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, OPTIONEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT OWNER IS SELLING AND OPTIONEE IS PURCHASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS, NO PATENT OR LATENT DEFECTS ON THE PROPERTY WHETHER KNOWN NOW OR DISCOVERED LATER SHALL AFFECT THIS AGREEMENT, AND THAT OPTIONEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM OWNER, ITS AGENTS, OR ANY BROKERS AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, utility systems, facilities and appliances, the square footage within the improvements on the Property, (ii) the quality, nature, adequacy, and physical condition of soils, geology, drainage, and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other land use status of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring properties, (viii) the quality of any labor and materials used in any improvements on the Property, or (ix) the economics of the operation of the Property.

Without limiting the above, but subject to the provisions below relating to Reserved Claims, effective on the Closing Optionee hereby waives its right to recover from, and forever releases and discharges, Owner and Owner's members, shareholders, partners, beneficiaries, successors and assigns, and their respective heirs and personal representatives (collectively, the "**Owner Related Parties**"), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the physical condition of the Property including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and Hazardous Materials on, under or about the Property or on, under or about nearby properties, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater of the Property and nearby properties, (iii) claims of any occupants of the Property against Owner or any Owner Related Party, (iv) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (v) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (vi) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vii) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (viii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring property, (ix) the quality of any labor and materials used in any improvements on the Property, (x) the condition of

title to the Property, (xi) economics of the operation of the Property and (xii) any law or regulation applicable to the use or operation of the Property, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.) and any other federal, state or local law.

In connection with the matters referred to above in this **Paragraph 13(d)**, Optionee on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Optionee, its agents, successors and assigns, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters referred to above. Section 1542 provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

The preceding provisions of this **Paragraph 13(d)** shall not constitute a waiver of any conditions precedent to Optionee's obligations under this Agreement. In addition, notwithstanding anything in this **Paragraph 13(d)** or any other provision herein to the contrary, Optionee reserves all rights and claims that it may have under this Agreement or applicable law with respect to the following (collectively, "**Reserved Claims**"): (a) fraud, willful misconduct, or the criminal acts of Owner and its members, employees, agents, consultants and contractors (collectively, "**Owner's Parties**"); (b) claims based upon acts or omissions of Owner which occur after the Closing; (c) any claims relating to dealings between Optionee and any Owner Party on transactions or matters relating to other properties; (d) any claims for breach of the representations, warranties, covenants and other obligations expressly set forth in this Agreement; or (e) claims for breach of the representations, warranties, covenants and other obligations set forth in the Closing Documents.

14. **Brokers.** Owner shall pay a brokerage commission to Cassidy Turley/BT Commercial (the "**Broker**") pursuant to a separate agreement between Owner and the Broker. Except for the Broker referred to in this **Paragraph 14**, each party represents to the other that it has not dealt with any other broker, agent, or finder for which a commission or fee is payable in connection with the transaction contemplated by this Agreement. Each party shall indemnify, defend, protect and hold harmless the other from any Claims arising from such party's breach of its representation contained in this paragraph.

15. Owner's Operating Covenants.

(a) Contracts. Prior to the Closing, Owner shall terminate all Contracts, except for the Contracts that Owner agrees to assign to Optionee and that Optionee agrees to assume. Optionee shall notify Owner of those Contracts, if any, that Optionee wishes to assume within thirty (30) days after receipt of such Contracts. If Optionee fails to notify Owner of its election to assume any of the Contracts within such thirty (30) day period, Optionee shall be deemed to have elected not to assume any of the Contracts. Those Contracts that Optionee expressly elects to assume, if any, shall be identified in an exhibit to the Assignment and assigned to and assumed by Optionee pursuant to the Assignment.

(b) Leases. From and after the Agreement Date, Owner shall not execute any new leases or modify or amend the Existing Lease, except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion. Owner shall not consent to any sublease or occupancy (other than by Tenant), except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion.

(c) Other Operating Covenants. From and after the Agreement Date, Owner shall not encumber the Property with any liens, encumbrances or other instruments creating a cloud on title or securing a monetary obligation that will survive the Closing. Owner shall maintain the Real Property in substantially the same condition as it exists as of the Agreement Date. Owner shall timely discharge, prior to the Closing, any and all obligations relating to work performed on or conducted at or materials delivered to the Real Property from time to time by Owner, or at Owner's direction or on its behalf, in order to prevent the filing of any claim or mechanic's lien with respect to such work or materials, and shall indemnify and hold Optionee harmless from any Claims or liens filed or otherwise claimed, in connection with any work, labor and/or materials performed on or furnished by, through or under Owner prior to the Closing. Until the Closing, Owner shall keep in full force and effect all existing insurance policies affecting the Real Property.

16. Assignment. Optionee may assign this Agreement and its rights and obligations hereunder by delivery to Owner of written notice of such assignment, provided that such assignee expressly assumes all of the obligations and liabilities of Optionee under this Agreement arising or accruing after the date of such assignment. If Optionee assigns this Agreement, then the closing documents to be delivered by Optionee and Owner shall be modified so that the assignee's name is substituted in lieu of the name of Optionee. Subject to the preceding provisions of this **Paragraph 16**, this Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties to this Agreement.

17. Memorandum of Agreement. At Optionee's request Owner shall execute and acknowledge a Memorandum of this Agreement substantially in the form attached hereto as **Exhibit B** (the "**Memorandum**"), and Optionee shall be entitled to record same in the official land records of the County. If Optionee fails to exercise the Option within the Option Term, or if this Agreement otherwise terminates for reasons other than Owner's default, Optionee shall execute a quitclaim deed sufficient to release the Memorandum from the Property.

18. Entire Agreement; Amendments. This Agreement and the exhibits hereto set forth all of the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an agreement in writing, duly executed by or on behalf of the party or parties against whom enforcement of any waiver, change, modification, consent or discharge is sought.

19. Attorneys' Fees. If a legal action, suit, or proceeding is brought by Optionee or Owner to enforce or interpret any of the provisions of this Agreement, or otherwise with regard to the Escrow or the Property, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection therewith. "**Prevailing party**" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other party is in breach or default, if such action is dismissed upon the other party's payment of the sums allegedly due or performance of the covenant allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action whether or not such action proceeds to a final judgment or determination.

20. Optionee's Remedies. Notwithstanding anything to the contrary contained in this Agreement, if the Closing does not occur as the result of the Owner's default of its obligation to deliver title to the Property to Optionee in the manner required hereby or Owner otherwise breaches its obligations to consummate the Closing in accordance with this Agreement, Optionee shall be entitled to pursue all available legal and equitable remedies, including without limitation (a) recovery of all Deposits made by Optionee plus claims for additional damages attributable to such breach or default by Owner (but only to the extent such claims for additional damages do not exceed One Hundred Thousand Dollars (\$100,000)) and (b) specific performance of this Agreement. The foregoing limitations on damages shall not apply to any claims arising from fraud, willful misconduct, or criminal conduct of Owner and shall not limit Optionee's recovery of attorneys' fees or other amounts pursuant to **Paragraph 19**.

21. Cure Period. Notwithstanding the provisions of **Paragraph 20** or any other provision of this Agreement, no default by either party hereto shall result in a termination or limitation of any rights of such party hereunder unless and until the other party shall have notified the defaulting party in writing of such default, and the defaulting party shall have failed to cure such default within ten (10) days after the receipt of such written notice; provided that, where a non-monetary default cannot reasonably be cured within such ten (10) day period, the defaulting party shall not be in default if defaulting party commences such cure within the ten (10) day period and thereafter diligently prosecutes such cure to completion. In addition, if Optionee fails to either exercise the Option pursuant to **Paragraph 2(c)** or to extend the Option Term by exercising an Extension Option pursuant to **Paragraph 2(b)**, then notwithstanding any provision of this Agreement to the contrary, the Option shall not be deemed to have lapsed or terminated unless Optionee fails to either (a) exercise the Option pursuant to **Paragraph 2(c)** or (b) to exercise an Extension Option and to deposit the applicable Additional Deposit required by **Paragraph 2(b)** within ten (10) days after Optionee receives written notice from Owner of either such failure. Notwithstanding the above, the failure by Optionee to consummate the Closing (for reasons other than Owner's default or the failure of a condition to closing specified in

Paragraph 10) on or before the Closing Date shall result in immediate termination and no such notice shall be required or cure period provided.

22. Entire Agreement. This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and no representation, inducement, promise, or agreement, oral or written, between the parties not embodied in this Agreement, will be of any effect. This Agreement supersedes and cancels any and all prior or contemporaneous negotiations, arrangements, representations and understanding, oral or written, if any, between the parties, relating to the subject matter of this Agreement.

23. Risk of Loss. Until the Closing, Owner shall assume all risk of loss with respect to the Real Property. If after the Agreement Date and prior to the Closing all or any part of the Real Property is destroyed by fire, earthquake or other casualty, Optionee shall within ten (10) business days after receipt of written notice from Owner of such casualty (but in all events at least one (1) day before the Closing Date) irrevocably elect either (a) to terminate this Agreement or (b) to keep this Agreement in effect, in which event if the Closing occurs Owner shall pay or assign to Optionee all insurance proceeds paid or payable to Owner (to the extent not previously expended in an effort to restore the Real Property) as a consequence of such casualty, and the Purchase Price shall be reduced by the amount of any deductible or other uninsured loss. If Optionee fails to timely elect either the option in clause (a) or in clause (b) above, then Optionee shall be deemed to have irrevocably elected the option in clause (b) above. If this Agreement is terminated pursuant to this paragraph, then (i) if the termination relates to a casualty occurring during the Initial Option Term, all the Deposits and interest earned thereon while in Escrow shall be returned to Optionee, (ii) if the termination relates to a casualty occurring after the expiration of the Initial Option Term, all the Deposits previously released to Owner shall be retained by Owner, and (iii) neither party shall have any further rights, duties, obligations or liabilities, at law or in equity, arising out of or relating to this Agreement except for those that specifically survive termination of this Agreement pursuant to other paragraphs hereof. Notwithstanding the above, if the damage to the Real Property does not exceed Two Hundred Thousand Dollars (\$200,000), then Optionee shall not have the right to terminate this Agreement pursuant to clause (a) above and shall be deemed to have irrevocably elected to keep this Agreement in effect pursuant to clause (b) above.

24. Miscellaneous.

(a) Time of the Essence. Time is of the essence of this Agreement.

(b) Dates. Any time period to be computed pursuant to this Agreement shall be computed by excluding the first day and including the last day. If the last day falls on a Saturday, Sunday or holiday, the last day shall be extended until the next business day that the Escrow Holder is open for business. As used herein, the term “**days**” means calendar days and the term “**business days**” means all calendar days other than Saturdays, Sundays, or holidays observed by Escrow Holder.

(c) Governing Law. This Agreement shall be governed by the law of the State of California. Owner and Optionee agree that all suits or actions of any kind brought to interpret or enforce the terms of, or otherwise arising out of or relating to this Agreement shall be filed and

litigated solely in the state court in the county in which the Real Property is located or if such suit or action cannot be filed and or litigated in state court, then in the federal court located closest to the Real Property. Each party hereby consents to the personal and subject matter jurisdiction of said courts. Owner and Optionee agree that San Mateo County shall for all purposes be considered the place in which this Agreement was entered into, notwithstanding the order in which, or the location or locations at which, it may have been executed or delivered.

(d) Notices. All notices or demands which either party is required or desires to give to the other shall be given in writing by certified mail, return receipt requested with the appropriate postage paid, by personal delivery, by facsimile (provided receipt of a facsimile transmission is confirmed telephonically or otherwise) or by private overnight courier service to the address or facsimile number set forth below for the respective party, or such other address or facsimile number as either party may designate by written notice to the other. All such notices or demands shall be effective as of actual receipt or refusal of delivery. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day. Notwithstanding the foregoing, if Optionee elects to exercises an Extension Option pursuant to **Paragraph 2(b)**, Optionee may elect to give notice of such election to Escrow Holder and Owner by email so long as Optionee makes the required Additional Deposit as and when required by **Paragraph 2(b)**.

To Owner: Chemical Way Properties, LLC.
c/o Capital Strategies Group, LLC
92 Natoma Street, Suite 303
San Francisco, California 94063
Fax: (415) 901-4421
Attn: Mr. Bob Corbolotti

To Optionee: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
Attn: City Manager

With copies to: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
Attn: City Attorney

And to: Heffernan Seubert & French LLP
1075 Curtis Street
Menlo Park CA 94025
Fax: (650) 322-2976
Attn: Daniel K. Seubert

(e) Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall

continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

(f) No Third-Party Beneficiaries. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Owner and Optionee only and are not for the benefit of any third party ; and, accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

(g) No Fiduciary Relationships. Owner is not the agent or representative of Optionee and Optionee is not the agent or representative of Owner, and nothing in this Agreement will be construed to make Optionee liable to anyone for goods delivered or services performed at the Real Property or for debts or claims accruing against Owner. Nothing in this Agreement will be construed to create any privity of contract or other relationship between Optionee and anyone supplying labor or materials to the Real Property. Nothing in this Agreement, nor the acts of the parties, will be construed to create a partnership or joint venture between Owner and Optionee.

(h) Further Assurances. Each party shall execute, acknowledge, and deliver, after the Agreement Date, including at or after the Closing, such further assurances, instruments and documents as the other may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

(i) Counterparts. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) Survival. Unless otherwise expressly stated in this Agreement, the warranties, representations and covenants of Owner and Optionee shall survive the Closing and delivery of the Grant Deed.

(k) Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

(l) Construction. The paragraph and section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The paragraph headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Agreement. The singular form will include plural, and vice versa. Each term, condition or provision hereof has

been freely negotiated and shall be equally binding upon Owner and Optionee and no such term, condition or provision shall be construed against either party hereto solely because such term, condition or provision was initially drafted or prepared by such party. Unless otherwise indicated, all references to paragraphs or sections are to this Agreement. All exhibits, schedules, addenda and attachments referred to in this Agreement are attached to it and incorporated in it by this reference. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates.

(m) Amendments. No amendment to this Agreement will be binding on any of the parties to this Agreement unless the amendment is in writing and executed by all parties. No acts or omissions of any employee or agent of the parties or any broker, if any, shall alter, change or modify any of the provisions of this Agreement.

(n) Non-Liability of Officials. No officer, official, member, employee, agent, or representatives of Optionee shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such official, member, employee, agent, or representative.

(o) Owner's Tax Deferred Exchange. Owner may desire to effect a tax-deferred exchange with respect to its disposition of the Property ("**Owner's Exchange**") pursuant to Section 1031 of the Internal Revenue Code. Owner's Exchange will be structured by Owner at its sole cost and expense and Optionee will have no obligation to acquire or enter into the chain of title to any property other than the Property. Optionee's sole obligation in connection with Owner's Exchange shall be to review and execute such documentation as is reasonably necessary in order to effectuate Owner's Exchange in accordance with the foregoing and the applicable rules governing such exchanges. Optionee's cooperation with Owner's Exchange shall not affect or diminish Optionee's rights under this Agreement, delay the Closing or be construed as Optionee's warranty that Owner's Exchange in fact complies with Section 1031 of the Internal Revenue Code. Optionee shall have the right to review and reasonably approve any documents to be executed by Optionee in connection with Owner's Exchange. Acceptance of title to the Property from Owner's designated intermediary shall not modify Owner's representations, warranties and covenants to Optionee under this Agreement or the survival thereof pursuant to this Agreement. The Grant Deed and all closing documents shall run directly between Owner and Optionee. Owner is relying solely upon the advice and counsel of professionals of Owner's choice in structuring, executing and consummating Owner's Exchange.

(p) Advice of Advisors. Each party to this Agreement acknowledges and agrees that it has obtained and relied upon its own legal counsel and other advisors to evaluate the tax, accounting and legal consequences of entering into this Agreement and consummating the transactions contemplated hereby, and, except as set forth in this Agreement, neither party is relying on any representations or warranties of the other party to this Agreement.

25. Owner's Waivers.

(a) Waiver of Relocation Assistance. Optionee's payment to Owner of the Purchase Price and Relocation Compensation shall constitute full and complete satisfaction of

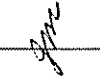
any obligation Optionee may have for providing relocation assistance to Owner and paying its relocation costs, if any, required to comply with all applicable federal, state and local laws, rules and regulations arising out of, based upon, or relating to, relocation assistance or benefits owing under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq. or under any other federal, state or local relocation statutes, regulations or guidelines, including but not limited to, any such regulations or guidelines of the City of Redwood City or the County of San Mateo (collectively, "**Relocation Benefits**"). Accordingly, Owner, for itself and for its agents, successors, assigns, fully releases, acquits and discharges Optionee and its officers, officials, members, directors, council members, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (collectively, the "**Released Parties**"), from all Claims that Owner, or any of them, has or may have against the Released Parties for all Relocation Benefits arising out of or related to Optionee's acquisition of the Property, the termination of the Existing Lease, the execution and termination of the New Lease, or the displacement of Owner or the Tenant (or any person claiming under Owner or the Tenant) from the Property. In addition, at the Closing, Owner assumes all obligations on the part of Optionee (and its successors and assigns) and all other governmental entities to provide Relocation Benefits to the Tenant.

(b) Waiver of Property Rights and Interests. Upon receipt by Owner of the Purchase Price and the Relocation Compensation, Owner for itself and for its agents, successors and assigns fully releases, acquits and discharges Optionee and the Released Parties from all Claims that Owner, its agents, successors and assigns has or may have against the Released Parties arising out of or related to Optionee's acquisition of the Property, the termination of the Existing Lease, the execution and termination of the New Lease, or the displacement of Owner from the Property including, without limitation, all of Owner's property rights and interests in the Property, including but not limited to (i) all leasehold interests and rights of tenancy or occupancy, (ii) all improvements, including improvements pertaining to the realty, furniture, fixture, and equipment, (iii) business goodwill and lost income (past or future) relating to the Property, (iv) Owner's failure to locate a suitable replacement location, (v) lost rental income or sublease or license income, (vi) severance damages and pre-condemnation damages, if any, (vii) economic or consequential damages, (viii) professional consultant fees, attorney's fees and costs, expert witness fees and costs, interest, and (ix) all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Owner, its agents, successors and assigns by reason of Optionee's acquisition of the Property, the termination of the Existing Lease, the execution and termination of the New Lease, or Owner's or the Tenant's displacement from the Property. Notwithstanding the above, Optionee and the Released Parties shall not be released from any obligations to indemnify or hold harmless Owner or Owner's Parties to the extent otherwise provided in this Agreement.

(c) Waiver of Civil Code Section 1542. Owner, on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**").

Thus, Owner and its agents, successors and assigns, and any business, enterprise, or venture in which they are involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters Released in **Paragraph 25(a)** or **Paragraph 25(b)** above. Section 1542 provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Owner's Initials: 

(d) **Indemnification.** Owner acknowledges that Optionee is relying on Owner's representation and warranty that, other than the Existing Lease, Owner has not executed and is unaware of any other leases, tenancies, subleases, or occupancy agreements affecting the Property (“**Owner's Occupancy Representation**”). In the event that Owner's Occupancy Representation is untrue, then without limiting Optionee's recourse for Owner's breach of Owner's Occupancy Representation, if such other tenants or occupants shall be entitled to Relocation Benefits, Owner shall have the sole and exclusive responsibility for providing all such Relocation Benefits and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations and satisfying all Claims of such parties. In addition, Owner shall have the sole and exclusive responsibility for providing all Relocation Benefits to which the Tenant is entitled, and paying all the Tenant's relocation costs required to comply with all applicable federal and state laws, rules, and regulations, and otherwise satisfying all Claims of Tenant for such Relocation Benefits. Owner hereby agrees to indemnify, defend, protect and hold the Released Parties harmless from and against any Claims asserted against or sustained by the Released Parties arising from (i) the termination of the Existing Lease (including without limitation any Claims by the Tenant for Relocation Benefits and inverse condemnation), (ii) the termination of the New Lease in accordance with its terms (including without limitation any Claims by the Tenant for Relocation Benefits and inverse condemnation), and (iii) Owner's breach of the Owner's Occupancy Representation, including without limitation claims for Relocation Benefits and inverse condemnation.

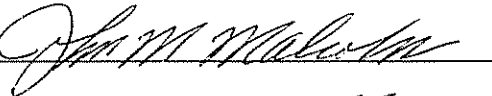
26. **Offer and Acceptance.** Owner has executed and delivered this Agreement as of the Agreement Date. Owner's execution and delivery of this Agreement to Optionee constitutes an offer to Optionee on the terms and conditions set forth in this Agreement (the “**Offer**”). The Offer may be accepted only (a) following approval of the transactions contemplated by this Agreement by the City Council of The City of Redwood City and (b) by Optionee's execution of this Agreement in the signature block set forth below and the delivery of this Agreement to Owner. If Optionee does not accept the Offer by executing this Agreement and delivering it to Owner on or before October 20, 2010, Owner shall have the right to revoke the Offer by written notice to Optionee.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the dates set forth below.

"OWNER"

CHEMICAL WAY PROPERTIES, LLC,
a California limited liability company

By: 

Its: Managing Member

Dated: 10-7-10

"OPTIONEE"

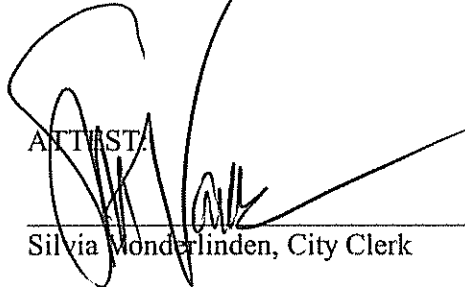
CITY OF REDWOOD CITY,
a charter city and municipal corporation of the State of California

By: 

Name: Peter C. Ingram

Its: City Manager

Dated: October 12, 2010

ATTEST:

Silvia Wondelinden, City Clerk

JOINDER AND ACCEPTANCE BY TENANT

The undersigned, Continental Tool Company, Inc., hereby acknowledges that it has received a copy of the foregoing Real Estate Option Agreement (the "**Agreement**") between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California ("**Optionee**"), and **CHEMICAL WAY PROPERTIES, LLC**, a California limited liability company ("**Owner**"). Capitalized terms used but not defined in this Joinder and Acceptance by Tenant (the "**Joinder**") shall have the meanings given to such terms in the Agreement. For the benefit of Owner and Optionee, Tenant hereby represents, warrants and agrees as follows:

1. Tenant and Owner are affiliated companies. Tenant currently leases the real property located at 20 Chemical Way, in the City of Redwood City, California (the "**Property**") pursuant to a lease agreement between Tenant and Owner (the "**Existing Lease**"). Tenant has not assigned the Existing Lease, subleased the Property or otherwise granted rights of occupancy or possession to any other party.

2. If Optionee (or its successor or assignee) consummates the purchase of the Property from Owner, then effective as of the Closing of the Escrow for such sale, the Existing Lease (a) shall be terminated (and if requested, the Tenant will execute such agreements or other documentation reasonably requested by Owner, Optionee and/or the Escrow Holder to confirm such termination), (b) the Optionee (or its successor or assignee) shall lease back the Property to the Tenant pursuant to a lease agreement to be executed and delivered by Optionee (or its successor or assignee) and the Tenant through the Escrow, in the form of **Exhibit F** attached to the Agreement (the "**New Lease**"), and (c) Optionee shall deposit in Escrow (for release to Owner upon the Closing) the sum of One Million Dollars (\$1,000,000) (the "**Relocation Compensation**"), subject to Owner's right to reallocate some or all of the Relocation Compensation to the Purchase Price for the Property, as full and complete compensation to cover all of Owner's and Tenant's costs to relocate their businesses to other locations and for disruption of such businesses. Tenant shall look solely to Owner (and not to Optionee or its successors or assigns) for the payment or provision of all Relocation Benefits (as defined in the New Lease).

3. Provided the conditions referred to in **Paragraph 2** above have been satisfied, Tenant shall execute and deliver the New Lease through the Escrow (together with appropriate escrow instructions) and the Hazardous Materials Disclosure Certificate contemplated thereby. Tenant acknowledges that it has had the opportunity to review the New Lease and the Agreement with counsel or other advisors of its choice and that Tenant approves all terms and conditions thereof, including without limitation the terms and conditions relating to the landlord's right to terminate the New Lease upon six months' notice and the Tenant's waiver of all Relocation Benefits. Prior to the Closing, Tenant further agrees to provide Owner, Optionee, and the Escrow Holder with estoppel certificates in the form required by the Existing Lease or as otherwise reasonably requested by Optionee.

4. The undersigned executing this Joinder have full authority to bind the Tenant. Tenant acknowledges that Owner and Optionee are relying on the promises of Tenant set forth in this Joinder and that absent such promises they would not execute the Agreement.

Dated: 10-7-10

Continental Tool Company, Inc.

By:

John M. Malo C.E.O.

Name:

John M. Malo / C.O.M.


By: _____

ACCEPTANCE BY ESCROW HOLDER

First American Title Insurance Company hereby acknowledges that it has received a fully executed counterpart of the foregoing Real Estate Option Agreement ("**Contract**") and agrees to act as Escrow Holder or agent under the Contract and to be bound by and perform the terms thereof as such terms apply to Escrow Holder.

Dated: 10-13-2010

First American Title Insurance Company

By: 

Name: KAREN MATSUNAGA

Its: Senior Commercial Escrow Officer

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

PARCEL ONE:

PORTION OF LOT 4 AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE 3, SAID PORTION OF LOT 4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 4;
THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT AND ALONG THE SOUTHWESTERLY LINE OF CHEMICAL WAY, AS SAID WAY IS SHOWN ON THE ABOVE MENTIONED MAP, SOUTH 55° 13' 12" EAST 44.61 FEET TO THE BEGINNING, OF A TANGENT CURVE TO THE RIGHT;
THENCE ALONG SAID CURVE, HAVING A RADIUS OF 98 FEET, THROUGH A CENTRAL ANGLE OF 66° 28' 12" AN ARC LENGTH OF 113.69 FEET TO THE BEGINNING OF A COMPOUND CURVE;
THENCE ALONG THE LAST SAID CURVE, HAVING A RADIUS OF 50 FEET, THROUGH A CENTRAL ANGLE OF 43° 58' 35" AN ARC LENGTH OF 38.38 FEET TO THE BEGINNING OF A REVERSE CURVE;
THENCE ALONG THE LAST SAID CURVE, HAVING A RADIUS OF 57 FEET, THROUGH A CENTRAL ANGLE OF 47° 37' 59" AN ARC LENGTH OF 47.39 FEET;
THENCE LEAVING SAID NORTHEASTERLY LINE OF LOT 4 AND SAID SOUTHWESTERLY LINE OF CHEMICAL WAY ON A NON-RADIAL LINE, SOUTH 67° 30' 00" WEST 45.66 FEET;
THENCE NORTH 59° 09' 15" WEST 100.83 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID LOT 4;
THENCE ALONG THE LAST SAID LINE, NORTH 30° 50' 45" EAST 188.03 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

PORTION OF LOT 4 AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE 3, SAID PORTION OF LOT 4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 4; THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT, NORTH 30° 50' 45" EAST 173.61 FEET; THENCE LEAVING THE LAST SAID LINE, SOUTH 59° 09' 15" EAST 100.83 FEET; THENCE NORTH 67° 30' 00" EAST 45.66 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF CHEMICAL WAY, AS SAID WAY IS SHOWN ON THE ABOVE MENTIONED MAP; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE OF CHEMICAL WAY, ALONG THE ARC OF A CURVE TO THE LEFT, TANGENT TO A BEARING OF SOUTH 7° 35' 36" WEST, SAID CURVE HAVING A RADIUS OF 57 FEET, THROUGH A CENTRAL ANGLE OF 52° 10' 01", AN ARC LENGTH OF 51.90 FEET; THENCE LEAVING SAID SOUTH- WESTERLY LINE OF CHEMICAL WAY, SOUTH 67° 30' 00" WEST 98.49 FEET; THENCE SOUTH 30° 11' 59" WEST 97.35 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 4; THENCE NORTHWESTERLY ALONG THE LAST SAID LINE, NORTH 59° 48' 01" WEST 108.42 FEET TO THE POINT OF BEGINNING

APN: 052-392-240-9 (Parcel One) and 052-392-270-6 (Parcel Two)
JPN: 052-039-392-24A and 052-039-392-27A

EXHIBIT B
MEMORANDUM OF OPTION AGREEMENT

Recording Requested by and:
When Recorded Return to:

This Space For Recorder's Use Only

MEMORANDUM OF REAL ESTATE OPTION AGREEMENT

By this Memorandum of Real Estate Option Agreement (this "**Memorandum**") dated as of _____, 2010, _____ ("**Owner**"), and **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), acknowledge and agree to the following:

1. Real Estate Option Agreement. Pursuant to the terms of that certain unrecorded Real Estate Option Agreement (the "**Option Agreement**"), by and between Owner and Optionee, dated as of _____, Owner has granted to Optionee the exclusive right and option to purchase that certain real property, consisting of approximately _____ acres, having Assessor Parcel No. _____, located in the City of _____, County of _____, State of California, as more particularly described on Exhibit A attached hereto (the "**Property**").

2. Term. The term of the Option Agreement, and any rights or interest of Optionee in and to the Property created hereby, shall begin on the date of this Memorandum, and shall end no later than December 31, 2011, and may end earlier as provided in the Option Agreement.

3. Price and Terms. The price and other terms are set forth in the Option Agreement, all of the terms, covenants and conditions of which are incorporated herein by reference as though set forth fully herein. In the event of any inconsistency between this Memorandum and the Option Agreement, the Option Agreement shall control. All capitalized terms used herein and not otherwise defined herein shall have the same meaning as is set forth in the Purchaser Agreement.

4. Effect. Owner and Optionee have executed and recorded this Memorandum for the purpose of imparting notice of the Option Agreement and the respective rights and obligations of Owner and Optionee thereunder. The obligations of Owner and Optionee to be

performed under the Option Agreement and this Memorandum, whether to be performed on the Property or elsewhere and whether such obligations are affirmative or negative in nature, are intended to and shall bind Owner and Optionee and shall bind and inure to the benefit of and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, Owner and Optionee have signed this Memorandum of Option Agreement dated as of the date first set forth above.

OWNER:

_____,
a _____

By: _____

Name: _____

Its: _____

OPTIONEE:

CITY OF REDWOOD CITY, a charter city and
municipal corporation of the State of California

By: _____

Name: _____

Its: _____

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

Exhibit A

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

PARCEL ONE:

PORTION OF LOT 4 AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE 3, SAID PORTION OF LOT 4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 4;
THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT AND ALONG THE SOUTHWESTERLY LINE OF CHEMICAL WAY, AS SAID WAY IS SHOWN ON THE ABOVE MENTIONED MAP, SOUTH 55° 13' 12" EAST 44.61 FEET TO THE BEGINNING, OF A TANGENT CURVE TO THE RIGHT;
THENCE ALONG SAID CURVE, HAVING A RADIUS OF 98 FEET, THROUGH A CENTRAL ANGLE OF 66° 28' 12" AN ARC LENGTH OF 113.69 FEET TO THE BEGINNING OF A COMPOUND CURVE;
THENCE ALONG THE LAST SAID CURVE, HAVING A RADIUS OF 50 FEET, THROUGH A CENTRAL ANGLE OF 43° 58' 35" AN ARC LENGTH OF 38.38 FEET TO THE BEGINNING OF A REVERSE CURVE;
THENCE ALONG THE LAST SAID CURVE, HAVING A RADIUS OF 57 FEET, THROUGH A CENTRAL ANGLE OF 47° 37' 59" AN ARC LENGTH OF 47.39 FEET;
THENCE LEAVING SAID NORTHEASTERLY LINE OF LOT 4 AND SAID SOUTHWESTERLY LINE OF CHEMICAL WAY ON A NON-RADIAL LINE, SOUTH 67° 30' 00" WEST 45.66 FEET;
THENCE NORTH 59° 09' 15" WEST 100.83 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID LOT 4;
THENCE ALONG THE LAST SAID LINE, NORTH 30° 50' 45" EAST 188.03 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

PORTION OF LOT 4 AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE 3, SAID PORTION OF LOT 4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 4; THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT, NORTH 30° 50' 45" EAST 173.61 FEET; THENCE LEAVING THE LAST SAID LINE, SOUTH 59° 09' 15" EAST 100.83 FEET; THENCE NORTH 67° 30' 00" EAST 45.66 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF CHEMICAL WAY, AS SAID WAY IS SHOWN ON THE ABOVE MENTIONED MAP; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE OF CHEMICAL WAY, ALONG THE ARC OF A CURVE TO THE LEFT, TANGENT TO A BEARING OF SOUTH 7° 35' 36" WEST, SAID CURVE HAVING A RADIUS OF 57 FEET, THROUGH A CENTRAL ANGLE OF 52° 10' 01", AN ARC LENGTH OF 51.90 FEET; THENCE LEAVING SAID SOUTH- WESTERLY LINE OF CHEMICAL WAY, SOUTH 67° 30' 00" WEST 98.49 FEET; THENCE SOUTH 30° 11' 59" WEST 97.35 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 4; THENCE NORTHWESTERLY ALONG THE LAST SAID LINE, NORTH 59° 48' 01" WEST 108.42 FEET TO THE POINT OF BEGINNING

APN: 052-392-240-9 (Parcel One) and 052-392-270-6 (Parcel Two)
JPN: 052-039-392-24A and 052-039-392-27A

EXHIBIT C

ASSIGNMENT AND BILL OF SALE

Reference is hereby made to that certain property located in the City of Redwood City, County of San Mateo, California (the "**Land**"), as described in more detail on Exhibit A of that certain Real Estate Option Agreement between Owner and Optionee (as such parties are defined below) dated as of _____, 2010 (the "**Agreement**"). Capitalized terms used but not defined in this Assignment and Bill of Sale (the "**Assignment**") have the meaning given to such terms in the Agreement.

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned ("**Owner**"), does hereby, give, grant, bargain, sell, transfer, assign, convey and deliver to **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), the following:

(a) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "**Appurtenances**");

(b) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which are collectively referred to as the "**Improvements**" and, together with the Land and the Appurtenances, the "**Real Property**"); and

(c) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and the Improvements, including, without limitation, (i) the right to use any trade name now used in connection with the Real Property, (ii) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (iii) all existing warranties and guaranties (express or implied) relating to the Real Property, (iv) Owner's rights under the contracts and agreements, if any, described on **Schedule ____** hereto (the "**Contracts**"), and (v) the Property Documents all other intangible rights or claims that run with or relate to the Real Property (collectively, the "**Personal Property**").

Optionee hereby assumes all of the obligations of Assignor under the Contracts described on **Schedule ____** attached hereto, to the extent such obligations relate to the period after the Closing under the Agreement (the "**Transfer Date**"), and agrees to be bound by such Contracts from and after the Transfer Date for the remainder of the terms thereof. Optionee's acceptance of this Assignment shall not constitute or be deemed to constitute an assumption by Optionee of any duties, liabilities or obligations of Owner under any other contracts or agreements.

Owner hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Optionee, its nominees, successor and /or assigns, any new or confirmatory instruments and do and perform any other acts which Optionee, its nominees, successors and/or assigns, may request in order to fully transfer possession and control of, and protect the rights of Optionee, its nominees, successors and/or assigns in, all the assets of Owner intended to be transferred and assigned hereby.

IN WITNESS WHEREOF, this Assignment is executed by Owner as of the date set forth above.

OWNER:

OPTIONEE:

SCHEDULE OF ASSUMED CONTRACTS

EXHIBIT D

[Intentionally omitted]

EXHIBIT E
LIST OF CONTRACTS

EXHIBIT F
FORM OF LEASE

LEASE AGREEMENT

20 CHEMICAL WAY

This Lease Agreement (this “**Lease**”), dated _____, for reference purposes only, is made and entered into by and between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California (“**Landlord**”), and **CONTINENTAL TOOL COMPANY, INC.**, a California corporation (“**Tenant**”). Landlord and Tenant agree to the terms, covenants and conditions of this Lease, as follows:

1. Definitions.

1.1 Property. The term “**Property**” shall mean the real property located at 20 Chemical Way in the City of Redwood City, California, Assessor Parcel Numbers 052-392-240 and 052-392-270, together with all improvements now or hereafter located on the real property, as described on Exhibit A.

1.2 Building. The term “**Building(s)**” shall mean, individually or collectively as the case may be, the building or buildings located on the Property as of the date of this Lease.

1.3 Premises. The term “**Premises**” shall mean the Property, the Building(s), and any other improvements located on the Property.

1.4 Owner. The term “**Owner**” means Chemical Way Properties, LLC, a California limited liability company, which is a company affiliated with Tenant.

1.5 Option Agreement. The term “**Option Agreement**” means the Real Property Option Agreement between Landlord (as the “**Optionee**”) and the Owner, dated _____, 2010, pursuant to which Landlord acquired the Property.

2. Demise, Term and Possession.

2.1 Demise of Premises. Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord for the term, at the rental, and upon all of the other terms, covenants and conditions set forth herein. Tenant acknowledges that it is currently in possession of the Premises and accepts the Premises in their “as is” condition. Landlord makes no representations or warranties regarding the condition of the Premises, the Building(s) or the Property. Landlord shall have no obligation to make any alterations or improvements to the Premises, the Building(s) or the Property.

2.2 Term and Delivery. The term of this Lease (the “**Term**”) (a) shall commence on the date that Landlord consummates the purchase of the Property from Tenant (the “**Commencement Date**”) and (b) shall expire on the date that this Lease is terminated by Tenant or by Landlord as provided in Section 2.4 or Section 2.5, below; provided, however, that the

Term of the Lease in all event events shall expire on December 31, 2013, unless otherwise agreed in writing by Landlord and Tenant. The date upon which the term of the Lease expires or is terminated in accordance with the terms of this Lease is referred to as the “**Expiration Date.**”

2.3 Delay in Delivery of Possession. The Commencement Date is expected to occur on or before December 31, 2011. If for any reason Landlord fails to deliver possession of the Premises to Tenant on the anticipated Commencement Date described above, Landlord shall not be liable to Tenant therefor, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder.

2.4 Termination by Tenant. Notwithstanding anything in this Lease to the contrary, Tenant may terminate this Lease at any time, and for any or no reason, by delivering written to Landlord at least thirty (30) days prior to the termination date specified in such notice. If Tenant exercises such termination right, then the Expiration Date shall be the date set forth in such notice, provided such date is at thirty (30) days after the date such notice is delivered by Tenant to Landlord.

2.5 Termination by Landlord. Notwithstanding anything in this Lease to the contrary, Landlord may terminate this Lease at any time, and for any or no reason, by delivering written notice (the “**Landlord’s Termination Notice**”) to Tenant at least six (6) months prior to the termination date specified in such notice. If Landlord exercises such termination right, then the Expiration Date shall be the date set forth in the Landlord’s Termination Notice, provided such date is at least six (6) months after the date the Landlord’s Termination Notice is delivered by Landlord to Tenant. Notwithstanding the preceding provisions of this **Section 2.5** to the contrary, Landlord shall not deliver Landlord’s Termination Notice until the later of (a) six (6) months after the Commencement Date, and (b) the date that is six (6) months before the date on which Landlord anticipates that it will require exclusive possession of the Premises in order to commence demolition of the improvements on the Premises and construction of new improvements on the Premises (the “**Anticipated Possession Date**”). Tenant acknowledges that Landlord (or its successors or assigns) desires to acquire the Property and certain other real property adjacent or contiguous to the Property as part of an assemblage of land that Landlord presently intends to jointly develop as a unified project (the “**Project**”) and that the timing for the planning, design, and permitting of the Project and the date by which Landlord shall require exclusive possession of the Premises for commencement of demolition and other pre-construction activities is difficult to ascertain with certainty. Accordingly, so long as Landlord acts in good faith, the timing of Landlord’s delivery of the Landlord’s Termination Notice pursuant to clause (b) of this **Section 2.5** shall be binding on Tenant. However, if Landlord delivers Landlord’s Termination Notice under clause (b) of this **Section 2.5** and if as of the Anticipated Possession Date Landlord in its sole discretion determines that it does not then require possession of the Premises, then Landlord shall notify Tenant of such fact and the Term of the Lease shall continue on a month-to-month basis at the rental amount set forth in **Section 3.1**. In such event, the month-to-month tenancy may be terminated by either Landlord or Tenant by its delivery to the other party of written notice electing to terminate this Lease, provided that

Landlord shall not exercise such termination right until it determines in its sole discretion that it will require possession within thirty (30) days after the delivery of such termination notice.

2.6 Entry by Landlord. At any time during the Term, Landlord and its agents, employees, contractors, consultants, and other designees (collectively, "**Landlord's Authorized Parties**") may, upon two (2) business days' prior written notice, enter upon the Property to conduct any activity and perform any investigation, test, study or analysis for the purpose of planning, designing, surveying, or otherwise developing the Property, including, but not limited to, soils studies, engineering studies, tree surveys, archeological studies, biological studies, utilities studies, hydrology studies, preparation of plans, and any other matters relating to Landlord's contemplated use of the Property. Landlord shall pay all costs with respect to such studies and tests. Landlord's Authorized Parties may bring such equipment on the Premises as is necessary or appropriate to make such studies or otherwise undertake such activities. Landlord shall use commercially reasonable efforts to minimize disturbance of Tenant's business then-being conducted at the Premises.

3. Rent.

3.1 Base Rent. Tenant shall pay to Landlord, for each calendar month of the Term of this Lease, monthly base rent of Two Thousand Five Hundred Dollars (\$2,500) per month (hereafter called "**Base Rent**"). The Base Rent shall not be increased during the Term (including any extension of the Term as provided in Section 2.5) unless Tenant holds over after the expiration of the Term as provided in Section 27).

3.2 Rent Defined; Manner of Payment. The term, "**rent**" as used in this Lease shall include the Base Rent and all other sums required to be paid by Tenant to Landlord pursuant to the terms of this Lease. Tenant shall pay to the order of Landlord (at the address identified in the opening paragraph of this Lease) all rent payable under this Lease without deduction, offset, or abatement, and without prior notice or demand, in advance on the first day of each calendar month of the Term of this Lease. Rent shall be payable in lawful money of the United States to Landlord at the address stated in the initial paragraph above or to such other persons or at such other places as Landlord may from time to time designate in writing. Tenant's obligation to pay rent for any partial month shall be prorated on the basis of a thirty (30) day month. Base Rent for the first full calendar month of the Lease term shall be paid to Landlord upon the execution hereof.

3.3 Late Payment Charge. If any installment of rent or any other sum due from Tenant is not received by Landlord within three (3) days after the date due, Tenant shall pay to Landlord an additional sum equal to ten percent (10%) of the amount overdue as a late charge to compensate for processing and accounting charges and any charges that may be incurred by Landlord. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount.

4. Use.

4.1 Permitted Uses. The Premises shall be used and occupied only for the following purposes (the "**Permitted Use**") and for no other use or purpose whatsoever: retail, industrial, wholesale, and construction.

4.2 Compliance with Law. Tenant shall accept possession of the Premises in their condition existing as of the date of Landlord's delivery of possession thereof to Tenant, subject to all laws, ordinances, codes, rules, orders, directions and regulations of lawful governmental authority (collectively, "**Applicable Laws**") regulating the use or occupancy of the Premises, and all matters disclosed by any exhibits attached hereto. Tenant, at Tenant's sole expense, shall promptly comply with all Applicable Laws as may now or hereafter be in effect relating to or affecting the condition, use or occupancy of the Premises. Without limiting the foregoing, Tenant shall obtain all permits, clearances or other authorizations required from the City of Redwood City and all other applicable governmental agencies and authorities required for Tenant's use and occupancy of the Premises.

4.3 Restrictions on Use. Tenant shall not use or permit the use of the Premises in any manner that will tend to create waste on the Premises or constitute a nuisance to any other occupant or user of the Building(s) or any other portion of the Property or adjacent thereto or do or keep anything that will cause cancellation of or an increase in rates of any insurance covering the Building(s). Tenant shall not use any apparatus, machinery, or other equipment in or about the Premises that may overload existing electrical systems, and shall not place any loads upon the floors, walls, or ceilings of the Premises which may jeopardize the structural integrity of the Building(s) or any part thereof. Tenant shall not make any penetrations of the roof or exterior of the Building(s) without the prior written approval of Landlord. No materials or articles of any nature shall be stored outside of the Building(s) unless such storage complies with all Applicable Laws and governmental requirements and the rules and regulations set forth in **Exhibit B** hereto.

4.4 Hazardous Substances.

(a) Reportable Uses Require Consent. The term, "**Hazardous Substance**," as used in this Lease, shall mean any product, substance, chemical, material, or waste whose presence, nature, quantity, and/or intensity of existence, use, manufacture, disposal, transportation, spill, release, or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substance shall include, but not be limited to, hydrocarbons, petroleum, battery acid, gasoline, crude oil, or any products or by-products thereof. Tenant shall not engage in any activity in or about the Premises which constitutes a Reportable Use (as hereinafter defined) of Hazardous Substances without the express prior written consent of Landlord and compliance in a timely manner (at Tenant's sole cost and expense) with all Applicable Laws (as defined in **Section 4.2**). "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a

permit from, or with respect to which a report, notice, registration, or business plan is required to be filed with, any governmental authority, and (iii) the presence in, on, or about the Premises of a Hazardous Substance with respect to which any Applicable Laws require that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Tenant may, without Landlord's prior consent, but upon notice to Landlord and in compliance with all Applicable Laws, use any ordinary and customary materials reasonably required to be used by Tenant in the normal course of the Permitted Use, so long as such use is not a Reportable Use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage, or expose Landlord to any liability therefor. In addition, Landlord may (but without any obligation to do so) condition its consent to any Reportable Use of any Hazardous Substance by Tenant upon Tenant's giving Landlord such additional assurances as Landlord, in its reasonable discretion, deems necessary to protect itself, the public, the Premises, and the environment against damage, contamination, injury, and/or liability therefor, including but not limited to the installation (and, at Landlord's option, removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasements) and/or the deposit of an additional Deposit. Notwithstanding the above, Tenant may continue to utilize any Hazardous Substances, including but not limited to those that would constitute a Reportable Use provided Tenant was using such materials prior to the Commencement Date, Tenant discloses the types and quantities of Hazardous Substances being used by Tenant as provided in **Section 4.4(f)**, and all such continuing use, handling, storage and disposal is done in accordance with all Applicable Laws.

(b) Duty to Inform Landlord. If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance is located in, under, or about the Premises or the Building(s), Tenant shall immediately give Landlord written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action, or proceeding given to, or received from, any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to such Hazardous Substance. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including, without limitation, through the plumbing or sanitary sewer system).

(c) Indemnification. Tenant shall indemnify, protect, defend, and hold Landlord, and the officers, directors, officials, shareholders, members, partners, employees, managers, independent contractors, attorneys, and agents of the foregoing (collectively, "**Landlord Parties**") and the Premises harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance on or brought onto the Premises during the Term by or for Tenant or by any of Tenant's employees, agents, contractors, servants, visitors, suppliers, or invitees (such employees, agents, contractors, servants, visitors, suppliers, and invitees as herein collectively referred to as "**Tenant Parties**"). Tenant's obligations under this **Section 4.4(c)** shall include, but not be limited to, the effects of any contamination or injury to person, property, or the environment created or suffered by Tenant, and the cost of investigation (including consultants' and attorneys' fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved.

(d) Remedial Work by Tenant. If any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or remediation of Hazardous Substances (collectively, "**Remedial Work**") is required under any Applicable Laws as a result of the handling, use, storage, treatment, transportation or disposal of any Hazardous Substances after the Commencement Date by Tenant or any Tenant Party, then Tenant shall perform or cause to be performed the Remedial Work in compliance with Applicable Laws or, at Landlord's option, Landlord may cause such Remedial Work to be performed and Tenant shall reimburse Landlord for all costs relating to such Remedial Work within thirty (30) days after demand. All Remedial Work performed by Tenant shall be performed by one or more contractors, selected by Tenant and approved in advance in writing by Landlord, and under the supervision of a consulting engineer selected by Tenant and approved in advance in writing by Landlord. All costs and expenses of such Remedial Work shall be paid by Tenant, including, without limitation, the charges of such contractor(s), the consulting engineer and Landlord's reasonable attorneys' and experts' fees and costs incurred in connection with monitoring or review of such Remedial Work

(e) Landlord Inspection Rights. Landlord shall have the right, at any time with two (2) business days prior written notice to Tenant, to inspect the Premises and conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this **Section 4**. The costs of all such inspections, tests and investigations shall be borne solely by Landlord, unless it is determined that Tenant is not in compliance with this **Section 4**, in which event Tenant shall reimburse Landlord for such costs within ten (10) days after Landlord's demand. The foregoing rights granted to Landlord shall not, however, create (i) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe the Premises or the activities of Tenant or any Tenant Party with respect to Hazardous Substances, including, but not limited to, Tenant's operation, use or remediation thereof, or (ii) liability on the part of Landlord or any Landlord Entity for Tenant's use, storage, treatment, transportation, release, or disposal of any Hazardous Substances, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

(f) Hazardous Substances Disclosure Certificate. Prior to executing this Lease, Tenant has completed, executed and delivered to Landlord a Hazardous Materials Disclosure Certificate ("**Initial Disclosure Certificate**"), a fully completed copy of which is attached hereto as **Exhibit C** and incorporated herein by this reference. The completed Hazardous Substances Disclosure Certificate shall be deemed incorporated into this Lease for all purposes, and Landlord shall be entitled to rely fully on the information contained therein. Tenant shall, at such times as Tenant desires to handle, produce, treat, store, use, discharge or dispose of new or additional Hazardous Substances on or about the Premises that were not listed on the Initial Disclosure Certificate, complete, execute and deliver to Landlord an updated Disclosure Certificate (each, an "**Updated Disclosure Certificate**") describing Tenant's then current and proposed future uses of Hazardous Substances on or about the Premises, which Updated Disclosure Certificates shall be in the same format as that which is set forth in **Exhibit C** or in such updated format as Landlord may reasonably require from time to time. Tenant shall deliver an Updated Disclosure Certificate to Landlord not less than thirty (30) days prior to the date Tenant intends to commence the manufacture, treatment, use, storage, handling,

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discharge or disposal of new or additional Hazardous Substances on or about the Premises, and Landlord shall have the right to approve or disapprove such new or additional Hazardous Substances in its reasonable discretion. Tenant shall make no use of Hazardous Substances on or about the Premises except as described in the Initial Disclosure Certificate or as otherwise approved by Landlord in writing in accordance with this Section 4.4(f).

4.5 Covenants, Conditions, and Restrictions. Tenant shall comply with all covenants, conditions, and restrictions (if any) that now or hereafter encumber the Property and any subsequent amendments thereto.

4.6 Rules and Applicable Laws. Tenant shall comply with all rules and regulations set forth in Exhibit C hereto and any subsequent amendments thereto.

5. Taxes.

5.1 Tenant's Personal Property. Tenant shall pay prior to delinquency all taxes, license fees, and public charges assessed or levied against Tenant or Tenant's estate in this Lease or Tenant's leasehold improvements, trade fixtures, furnishings, equipment and all other personal property and merchandise of Tenant situated in or about the Premises.

5.2 Landlord's Obligations to Pay Real Property Taxes. Landlord shall pay all Real Property Taxes (as hereinafter defined) which become due during the Lease term. The term "**Real Property Taxes**" as used herein shall mean the ad valorem real property taxes and assessments shown on tax bills issued by the tax assessor's office.

6. Maintenance and Repairs.

6.1 Tenant's Obligations. Except as otherwise specifically provided herein Tenant shall throughout the Term, at Tenant's expense, keep in safe condition and in substantially the same condition existing as of the Commencement Date (including any defects existing as of the Commencement Date, and further subject to reasonable wear and tear and damage arising from casualty or any taking of the Premises by any governmental authority), the Premises and every part thereof, including without limitation, (a) the foundation and exterior walls of the Building(s) (including the exterior and interior of all walls and the exterior and interior of all windows, doors and plate glass), (b) the roof of the Building(s), including structural supports and the roof membrane, (c) all plumbing, fire sprinkler and sewage systems, and all ducts, pipes, vents or other parts of the heating, ventilation and air conditioning system (the "HVAC") which are located in the Building(s), (d) all electrical and lighting facilities, systems, appliances, and equipment, including all wiring therein, (e) all fixtures, interior walls, interior surfaces of exterior walls, floors, and ceilings, (f) all windows, doors, entrances, all glass (including plate glass), and skylights located within the Premises, (g) all landscaping, parking areas, loading areas, and (h) any other tanks, equipment or other apparatus located on the Property. Tenant shall provide all cleaning, window washing, and janitorial service required for the Premises. All repairs required to be made by Tenant shall be made in accordance with all Applicable Laws. If the repair work required above affects the structural parts of the Building(s),

or if the estimated cost of any item of repair exceeds Fifty Thousand Dollars (\$50,000), then Tenant shall first obtain Landlord's written approval of the scope of work, plans therefor, materials to be used and the contractor. Notwithstanding anything in this **Section 6.1** or elsewhere in this Lease to the contrary, Tenant shall have no obligation to perform or pay for (a) repair or maintenance of the Premises or the Building(s), to the extent such maintenance and repair is attributable to a casualty subject to the provisions of **Section 13** hereof or a condemnation subject to the provisions of **Section 14** hereof or (b) repairs for any heating, ventilation, air conditioning or other equipment or component of the Building(s) if (i) the reasonable cost of repair or replacement of any such item exceeds Five Thousand Dollars and (ii) Tenant has not taken any action in violation of this Lease that has caused the damage to such item that necessitates the repair or replacement.

6.2 Landlord's Obligations. Tenant acknowledges that Landlord shall have no obligation whatsoever to maintain or repair the Property, the Building(s) or the Premises or to provide any services relating thereto other than the obligation to repair the Premises in the event of a casualty to the extent set forth in **Section 13** of this Lease. Tenant hereby waives the benefit of any statute now or hereinafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good condition, order and repair. Tenant specifically waives all rights it may have under Sections 1932(l), 1941, and 1942 of the California Civil Code, and any similar or successor statute or law.

6.3 Condition of Premises. Landlord acknowledges that pursuant to **Paragraph 13(d)** of the Option Agreement it has purchased the Property from Owner in its "as is" condition and has released the Owner and the "Owner's Parties" (as defined therein) from certain claims. For purposes of **Section 6.1** and **Section 26** of this Lease, Tenant shall be deemed a third party beneficiary of **Paragraph 13(d)** of the Option Agreement, provided that Tenant shall not be released from any demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses arising from any spill, release, or other handling of Hazardous Substances by Tenant or any Tenant's Parties or any violation of Applicable Laws arising from the activities of Tenant or any Tenant's Parties.

7. Alterations.

7.1 Landlord's Consent Required. Except for Permitted Alterations (as defined below), Tenant shall not, without Landlord's prior written consent, make any alterations, improvements, additions, or utility installations (collectively the "**alterations**") in, on or about the Premises. As used in this **Section 7.1**, the term "**utility installation**" means power panels, wiring, florescent fixtures, space heaters, conduits, air conditioning and plumbing. Prior to construction or installation of any alterations, Landlord may require Tenant to provide Landlord, at Tenant's expense, a lien and completion bond in an amount equal to the estimated cost of such alterations, to insure Landlord against any liability for mechanic's and materialmen's liens and to insure completion of the work. Should Tenant make any alterations without the prior written consent of Landlord, Tenant shall immediately remove the same at Tenant's expense upon demand by Landlord. Any alterations made by Tenant shall not interfere with the use or

occupancy of the Building(s) by any other tenants nor interfere with the operation of any mechanical apparatus or electrical or plumbing system in the Building(s). Notwithstanding the foregoing, Tenant shall have the right to make non-structural alterations and utility installations the cost of which does not exceed \$50,000 during the Term of this Lease so long as such alterations and utility installations are installed in accordance with Applicable Laws and Tenant obtains all permits required for such alterations or utility installations (collectively, "**Permitted Alterations**")

7.2 Plans and Permits. Any alteration (other than Permitted Alterations) that Tenant desires to make in or about the Premises and which requires the consent of Landlord shall be presented to Landlord in written form, with proposed detailed plans and specifications therefor prepared at Tenant's sole expense. Any consent by Landlord thereto shall be deemed conditioned upon Tenant's subsequent acquisition of all permits required to make such alteration from all appropriate governmental agencies, the furnishing of copies thereof to Landlord to the extent required prior to commencement of the work, and the compliance by Tenant with all conditions of said permits in a prompt and expeditious manner, all at Tenant's sole expense. Upon completion of any such alteration, Tenant, at Tenant's sole cost, shall immediately deliver to Landlord "as-built" plans and specifications therefor.

7.3 Construction Work Done by Tenant. All construction work required or permitted to be done by Tenant shall be performed by a licensed contractor in a prompt, diligent, and good and workmanlike manner and shall conform in quality and design with the Premises existing as of the Commencement Date, and shall not diminish the value of the Building(s) or the Property. In addition, all such construction work shall be performed in compliance with all applicable statutes, ordinances, regulations, codes and orders of governmental authorities and insurers of the Premises. Tenant or its agents shall secure all licenses and permits necessary therefor.

7.4 Title to Alterations. Tenant may but shall not be required to remove any alterations at the termination of the Lease Notwithstanding the provisions of this **Section 7.4**, Tenant's furnishings, machinery and equipment, including that which is affixed to the Premises may but shall not be required to be removed by Tenant and any damage caused by such removal shall not be charged to Tenant. Tenant shall be solely responsible for the maintenance and repair of any and all alterations, additions or improvements made by Tenant to the Premises.

8. Mechanics' Liens. Tenant shall keep the Premises and the Property free from any liens attributable to Tenant. If any such claim of lien is recorded, Tenant shall bond against or discharge the same within ten (10) days after the same has been recorded against the Premises or the Property. Tenant shall give Landlord notice of the date of commencement of any work in the Premises not less than ten (10) days prior thereto, and Landlord shall have the right to post notices of non-responsibility or similar notices in or on the Premises in connection therewith.

9. Utilities and Services. Tenant shall pay all charges for water, gas, electricity, telephone, refuse pickup, janitorial services, and all other utilities and services

supplied or furnished to the Premises during the Term of this Lease, together with any taxes thereon. In no event shall Landlord be liable to Tenant for any failure or interruption of utility service except to the extent caused by the active negligence or misconduct of Landlord. No failure or interruption of any such utilities or services shall entitle Tenant to terminate this Lease or to withhold rent or other sums due hereunder and unless otherwise specifically provided herein. Landlord shall not be responsible for providing security guards or other security protection for all or any portion of the Premises or the Property, and Tenant shall at its own expense provide or obtain such security services as Tenant shall desire to ensure the safety of the Premises and the Property.

10. Indemnity. Tenant hereby indemnifies Landlord and the Landlord Parties (collectively, the “**Indemnified Parties**”) and holds the Indemnified Parties harmless from and against any and all claims for damage, loss, expense or liability due to, but not limited to, bodily injury, including death, resulting at any time therefrom, and/or property damage, now or hereafter arising from any act, work or things done or permitted to be done or otherwise suffered, or any omission to act, in or about the Premises, by Tenant or by any of Tenant’s agents, employees, contractors, or invitees during the Term, or from any breach or default by Tenant in the performance of any obligation on the part of Tenant to be performed under the terms of this Lease, except to the extent such damage, loss, expense or liability is caused by the active negligence or willful misconduct of Landlord or its employees or agents. Tenant shall also indemnify Landlord from and against all damage, loss, expense (including without limitation, attorneys’ fees), and liability incurred or suffered by Landlord in the defense of any such claim or any action or proceeding brought thereon provided Tenant is found to be at fault and Landlord has not through its negligence or willful misconduct caused such damage, loss, expense or liability. In the event any action or proceeding shall be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend the same at Tenant’s expense by counsel reasonably satisfactory to Landlord. The obligations of Tenant contained in this paragraph shall survive the termination of this Lease.

11. Waiver of Claims. Tenant hereby waives any claims against Landlord for injury to Tenant’s business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, or for injury or death of Tenant’s agents, employees, invitees, or any other person in or about the Premises from any cause whatsoever, except to the extent caused by Landlord’s active negligence or willful misconduct.

12. Insurance.

12.1 Tenant’s Liability Insurance. Tenant shall, at Tenant’s expense, obtain and keep in force during the term of this Lease a policy of commercial general liability insurance insuring Landlord and Tenant against any liability arising out of the condition, use, occupancy or maintenance of the Premises. Such policy of insurance shall have a limit for bodily injury and property damage in an amount not less than One Million Dollars (\$1,000,000). The policy shall contain cross liability endorsements and shall insure performance by Tenant of the

indemnity provisions of **Section 10**. The limits of said insurance shall not, however, limit the liability of Tenant hereunder.

12.2 Tenant's Property Insurance. Tenant shall, at Tenant's sole expense, obtain and keep in force during the Term of this Lease, a policy of fire and extended coverage insurance including a standard "all risk" endorsement, and a sprinkler leakage endorsement (if the Premises shall be sprinklered), insuring the inventory, fixtures, equipment, personal property, and leasehold improvements and alterations of Tenant within the Premises for the full replacement value thereof, as the same may increase from time to time due to inflation or otherwise. The Landlord shall have no interest in the proceeds of such insurance.

12.3 Landlord's Liability Insurance. Landlord shall maintain a policy or policies of commercial general liability insurance insuring Landlord (and such other entities as may be designated by Landlord) against liability for personal injury, bodily injury or death and damage to property occurring or resulting from an occurrence in, on, or about the Property with liabilities limits as Landlord may determine in its sole discretion.

12.4 Property Insurance. Landlord shall obtain and keep in force during the Term of this Lease a policy or policies of insurance for the benefit of Landlord and Tenant covering loss or damage to the Building(s), but excluding coverage of merchandise, fixtures, equipment, and leasehold improvements of Tenant, which are not considered part of the real estate for insurance purposes, in the amount of the full replacement value thereof, providing protection against all risks of direct physical loss or damage (except the perils of flood and/or earthquake), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also permit the waiver of subrogation. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$50,000 per occurrence. All proceeds under such policies of insurance shall be payable to Landlord, and Tenant shall have no interest in or right to such proceeds.

12.5 Other Insurance. Tenant shall obtain worker's compensation and employer's liability or other similar insurance to the extent required by Applicable Laws.

12.6 Insurance Policies. The insurance required to be obtained by Tenant pursuant to **Sections 12.1** and **12.2** shall be primary insurance and (a) shall provide that the insurer shall be liable for the full amount of the loss up to and including the total amount of liability set forth in the declarations without the right of contribution from any other insurance coverage of Landlord, (b) shall be in a form satisfactory to Landlord, (c) shall be carried with companies reasonably acceptable to Landlord, and (d) shall specifically provide that such policies shall not be subject to cancellation, reduction of coverage or other change except after at least the insurance provider endeavors to provide thirty (30) days prior written notice to Landlord. The policy or policies, or duly executed certificates for them, together with satisfactory evidence of payment of the premium thereon, shall be deposited with Landlord on or prior to the Commencement Date, and upon each renewal of such policies, which shall be effected not less than, thirty (30) days prior to the expiration date of the term of such coverage. Tenant shall not

do or permit to be done anything which shall invalidate any of the insurance policies to be carried by Tenant or Landlord hereunder.

12.7 Waiver of Subrogation. Tenant and Landlord each hereby waives any and all rights of recovery against the other, or against the officers, employees, agents and representatives of the other, for loss of or damage to the property of the waiving party or the property of others under its control, where such loss or damage is insured against under any insurance policy carried by Landlord or Tenant and in force at the time of such loss or damage (or where such loss or damage would have been insured under an insurance policy required to be carried by Landlord or Tenant hereunder, if Landlord or Tenant had in fact carried such policy). Tenant and Landlord shall, upon obtaining the policies of insurance required hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

12.8 No Limitation of Liability. Landlord makes no representation that the limits of liability specified to be carried by Tenant or Landlord under the terms of this Lease are adequate to protect any party. If Tenant believes that the insurance coverage required under this Lease is insufficient to adequately protect Tenant, Tenant shall provide, at its own expense, such additional insurance as Tenant deems adequate.

13. Damage or Destruction.

13.1 Minor Damage. If the Premises or the Building(s), as the case may be, are damaged so that the repairs may be made within four (4) months (as reasonably determined by Landlord) after the occurrence of the casualty, then provided Landlord has not previously elected to terminate this Lease under Section 2.5, Landlord shall at Landlord's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect.

13.2 Material Damage; Uninsured Damage. If at any time during the Term hereof the Premises or the Building(s) is damaged so that the damage cannot be repaired (as reasonably determined by Landlord) within four (4) months after the occurrence of the casualty, then Landlord may at Landlord's option either (a) repair such damage at Landlord's expense, in which event this Lease shall continue in full force and effect, or (b) give written notice of termination of this Lease to Tenant within thirty (30) days after the date of the occurrence of such damage, with the effective date of such termination to be the date of the occurrence of such damage. Notwithstanding the above, if the damage does not prohibit Tenant from utilizing the remaining portion of the Premises and Tenant desires to do so, then Tenant may remain on the Premises, provided it may do so without violating any Applicable Law relating to health and safety, until the Lease would otherwise terminate without regard to the damage. In such event, the rent shall be abated in proportion to the amount of the Premises which is not useable as a result of the damage.

13.3 Abatement of Rent. Notwithstanding anything to the contrary contained in this Section 13, if the Premises are partially damaged and Landlord repairs or

restores them pursuant to the provisions of this **Section 13**, the Base Rent payable hereunder for the period commencing on the occurrence of such damage and ending upon completion of such repair or restoration shall be abated in proportion to the extent to which Tenant's use of the Premises is impaired during the period of repair; provided that, nothing herein shall be construed to preclude Landlord from being entitled to collect the full amount of any rental loss insurance proceeds. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration other than for Landlord's active negligence or willful misconduct.

13.4 Waiver. Tenant waives the provisions of California Civil Code Sections 1932(2) and 1933(4), and any similar or successor statutes relating to termination of leases when the thing leased is substantially or entirely destroyed, and agrees that any such occurrence shall instead be governed by the terms of this Lease.

13.5 Tenant's Property. Landlord's obligation to rebuild or restore shall not include restoration of Tenant's trade fixtures, equipment, merchandise, or any improvements, alterations or additions made by Tenant to the Premises, except to the extent they have become a part of the Property pursuant to **Section 7.5** and Landlord receives insurance proceeds therefor.

13.6 Notice of Damage. Tenant shall notify Landlord within five (5) days after the occurrence thereof of any damage to all or any portion of the Premises. In no event shall Landlord have any obligation to repair or restore the Premises pursuant to this **Section 13** until a reasonable period of time after Landlord's receipt of notice from Tenant of the nature and scope of any damage to the Premises, and a reasonable period of time to collect insurance proceeds arising from such damage (unless such damage is clearly not covered by insurance then in effect covering the Premises).

13.7 Replacement Cost. The determination in good faith by Landlord of the estimated cost of repair of any damage, or of the replacement cost, shall be conclusive for purposes of this **Section 13**.

13.8 Tenant's Negligence. Notwithstanding anything in this **Section 13** to the contrary, Landlord shall not be required to repair any damage from a fire or other casualty if the damage arises from the negligence or willful misconduct of Tenant or any of Tenant's Parties.

14. [Intentionally omitted.]

15. Assignment and Subletting. Tenant shall not assign this Lease, or any interest therein, voluntarily or involuntarily, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of Tenant excepted) to occupy or use the Premises (by way of license, concession, or otherwise), or any portion thereof, without the prior written consent of Landlord in each instance pursuant to

the terms and conditions set forth below, which consent may be granted or withheld in Landlord's sole and absolute discretion.

15.1 Documentation. Prior to any assignment or sublease which Tenant desires to make, Tenant shall provide to Landlord the name and address of the proposed assignee or sublessee, and true and complete copies of all documents relating to Tenant's prospective agreement to assign or sublease, and shall specify all consideration to be received by Tenant for such assignment or sublease in the form of lump sum payments, installments of rent, or otherwise. For purposes of this **Section 15**, the term "**consideration**" shall include, without limitation, all monies or other consideration of any kind, including but not limited to, bonus money, and payments (in excess of book value thereof) for Tenant's assets, fixtures, inventory, accounts, good will, equipment, furniture, general intangibles, and any capital stock or other equity ownership of Tenant.

15.2 Terms and Conditions. Each assignment or sublease agreement to which Landlord has consented shall be an instrument in writing in form satisfactory to Landlord, and shall be executed by both Tenant and the assignee or sublessee, as the case may be. Each such assignment or sublease agreement shall recite that it is and shall be subject and subordinate to the provisions of this Lease, that the assignee or sublessee accepts such assignment or sublease and agrees to perform all of the obligations of Tenant hereunder (to the extent such obligations relate to the portion of the Premises assigned or subleased), and that the termination of this Lease shall, at Landlord's sole election, constitute a termination of every such assignment or sublease. In the event Landlord shall consent to an assignment or sublease, Tenant shall nonetheless remain primarily liable for all obligations and liabilities of Tenant under this Lease, including but not limited to the payment of rent. Tenant agrees to reimburse Landlord upon demand for reasonable attorneys' fees incurred by Landlord in connection with the negotiation, review, and documentation of any such requested assignment or sublease. Tenant hereby stipulates that the foregoing terms and conditions are reasonable.

15.3 Partnership or Limited Liability Company. If Tenant is a partnership or limited liability company, a transfer, voluntary or involuntary, of all or any part of an interest in the partnership or limited liability company, or the dissolution of the partnership or limited liability company, shall be deemed an assignment requiring Landlord's prior written consent.

15.4 Corporation. If Tenant is a corporation, any dissolution, merger, consolidation, or other reorganization of Tenant, or the transfer, either all at once or in a series of transfers, of a controlling percentage of the capital stock of Tenant, or the sale, or series of sales within any one (1) year period, of all or substantially all of Tenant's assets located in, on, or about the Premises, shall be deemed an assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty-one percent (51%) of the total combined voting power of all classes of Tenant's capital stock issued, outstanding, and entitled to vote for the election of directors. The provisions of this paragraph shall not apply to Tenant if Tenant is a corporation the stock of which is listed on a national securities exchange (as this term is used in the Securities Exchange Act of 1934, as amended), is publicly traded on the

over-the-counter market and prices therefor are published daily on business days in a recognized financial journal, or becomes subject to this provision by making an initial public offering.

15.5 Landlord's Remedies. Any assignment or sublease without Landlord's prior written consent shall at Landlord's election be void, and shall constitute a default. The consent by Landlord to any assignment or sublease shall not constitute a waiver of the provisions of this **Section 15**, including the requirement of Landlord's prior written consent, with respect to any subsequent assignment or sublease. If Tenant shall purport to assign this Lease or sublease all or any portion of the Premises, or permit any person or persons other than Tenant to occupy the Premises, without Landlord's prior written consent, Landlord may collect rent from the person or persons then or thereafter occupying the Premises and apply the net amount collected to the rent reserved herein, but no such collection shall be deemed a waiver of Landlord's rights and remedies under this Section 15 or the acceptance of any such purported assignee, sublessee or occupant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained.

15.6 Encumbrances, Licenses and Concession Agreements. Tenant shall not encumber its interest under this Lease or any rights of Tenant hereunder, or enter into any license or concession agreement respecting all or any portion of the Premises, without Landlord's prior written consent, and Tenant's granting of any such encumbrance, license, or concession agreement shall constitute an assignment for purposes of this **Section 15**.

16. Default by Tenant.

16.1 Event of Default. The occurrence of any one or more of the following events (an "**Event of Default**"), shall constitute a default and breach of this Lease by Tenant:

(a) The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant hereunder, as and when due after five (5) days prior written notice to Tenant;

(b) Tenant's failure to perform any other term, covenant or condition contained in this Lease and such failure shall have continued for twenty (20) days after written notice of such failure is given to Tenant; provided that, where such failure cannot reasonably be cured within said twenty (20) day period, Tenant shall not be in default if Tenant commences such cure within said twenty (20) day period, and thereafter diligently completes such cure within sixty (60) days;

(c) Tenant's failure to continuously and uninterruptedly conduct its business in the Premises for a period of more than thirty (30) consecutive days, or Tenant's removal of all or substantially all of its equipment and other possessions from the Premises, without in either case providing security protection for the Premises reasonably satisfactory to Landlord;

- (d) Tenant's breach of **Section 15** of this Lease;
- (e) Tenant's assignment of its assets for the benefit of its creditors;
- (f) The sequestration of, attachment of, or execution on, any substantial part of the property of Tenant or on any property essential to the conduct of Tenant's business on the Premises, and Tenant shall have failed to obtain a return or release on such property within sixty (60) days thereafter, or prior to sale pursuant to such sequestration, attachment or execution, whichever is earlier;
- (g) An entry of any of the following orders by a court having jurisdiction, and such order shall have continued for a period of sixty (60) days: (1) an order for relief in any proceeding under Title 11 of the United States Code, or an order adjudicating Tenant to be bankrupt or insolvent; (2) an order appointing a receiver, trustee or assignee of Tenant's property in bankruptcy or any other proceeding; or (3) an order directing the winding up or liquidation of Tenant; or
- (h) The filing of a petition to commence against Tenant an involuntary proceeding under Title 11 of the United States Code, and Tenant shall fail to cause such petition to be dismissed within sixty (60) days thereafter.

16.2 **Remedies.** Upon any Event of Default, Landlord shall have the following remedies, in addition to all other rights and remedies provided by law or equity:

- (a) To the extent permitted by Applicable Law, Landlord shall be entitled to keep this Lease in full force and effect for so long as Landlord does not terminate Tenant's right to possession (whether or not Tenant shall have abandoned the Premises), and Landlord may enforce all of its rights and remedies under this Lease, including the right to recover rent and other sums as they become due under this Lease, plus interest at the lower of five percent (5%) per annum plus the discount rate of the Federal Reserve Bank of San Francisco, or the highest rate then allowed by law, from the due date of each installment of rent or other sum until paid; or
- (b) Landlord may terminate the Tenant's right to possession by giving Tenant written notice of termination. On the giving of the notice, this Lease and all of Tenant's rights in the Premises shall terminate. Any termination under this paragraph shall not release Tenant from the payment of any sum then due Landlord or from any claim for damages or rent previously accrued or then accruing against Tenant.

In the event this Lease is terminated pursuant to this **Section 16.2(b)**, Landlord may recover from Tenant:

- (1) the worth at the time of award of the unpaid rent which had been earned at the time of termination; plus

(2) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss for the same period that Tenant proves could have been reasonably avoided; plus

(3) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided; plus

(4) any other amount necessary to compensate Landlord for all the detriment approximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award" of the amounts referred to in Subparagraphs (1) and (2) of this **Section 16.2(b)** shall be computed by allowing interest at the lower of five percent (5%) per annum plus the discount rate of the Federal Reserve Bank of San Francisco, or the maximum rate then permitted by law. The "worth at the time of award" of the amount referred to in Subparagraph (3) of this paragraph shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(c) This Lease may be terminated by a judgment specifically providing for termination, or by Landlord's delivery to Tenant of written notice specifically terminating this Lease. In no event shall any one or more of the following actions by Landlord, in the absence of a written election by Landlord to terminate this Lease, constitute a termination of this Lease or a waiver of Landlord's right to recover damages under this **Section 16**:

(1) appointment of a receiver in order to protect Landlord's interest hereunder;

(2) consent to any subletting of the Premises or assignment of this Lease by Tenant, whether pursuant to provisions hereof concerning subletting and assignment or otherwise.; or

(3) any other action by Landlord or Landlord's agents intended to mitigate the adverse effects of any Event of Default of this Lease by Tenant, including without limitation any action taken to maintain and preserve the Premises, or any action taken to relet the Premises or any portion thereof for the account of Tenant and in the name of Tenant.

16.3 No Relief From Forfeiture After Default. Tenant waives all rights of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, and under any other present or future law, in the event Tenant is evicted or Landlord otherwise lawfully takes possession of the Premises by reason of any Event of Default.

16.4 Landlord's Right to Perform Tenant's Obligations. If an Event of Default by Tenant shall occur hereunder, then Landlord may, but shall not be obligated to, make

such payment or perform such other act to the extent Landlord may deem desirable, and may, in connection therewith, pay any and all expenses incidental thereto and employ counsel. No such action by Landlord shall be deemed a waiver by Landlord of any rights or remedies Landlord may have as a result of such failure by Tenant, or a release of Tenant from performance of such obligation. All sums so paid by Landlord, including without limitation all penalties, interest and costs in connection therewith, shall be due and payable by Tenant to Landlord on the day immediately following any such payment by Landlord. Landlord shall have the same rights and remedies for the nonpayment of any such sums as Landlord may be entitled to in the case of default by Tenant in the payment of rent.

16.5 Interest on Past Due Obligations. Any amount due to Landlord hereunder not paid within three (3) days after Tenant's receipt of written notice of delinquency shall bear interest at the lower of five percent (5%) per annum plus the discount rate of the Federal Reserve Bank of San Francisco, or the highest rate then allowed by law, from the date due until paid in full. Payment of such interest shall not excuse or cure any default by Tenant under this Lease.

16.6 Additional Rent. All sums payable by Tenant to Landlord or to third parties under this Lease in addition to such sums payable pursuant to Section 3 hereof shall be payable as additional sums of rent. For purposes of any unlawful detainer action by Landlord against Tenant pursuant to California Code of Civil Procedure Sections 1161-1174, or any similar or successor statutes, Landlord shall be entitled to recover as rent not only such sums specified in Section 3 as may then be overdue, but also all such additional sums of rent as may then be overdue.

16.7 Remedies Not Exclusive. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies herein provided or permitted at law or in equity.

16.8 Notices. Tenant agrees that any notice given by Landlord pursuant to Section 16 of this Lease shall satisfy the requirements for notice under California Code of Civil Procedure Section 1161, and Landlord shall not be required to give any additional notice in order to be entitled to commence an unlawful detainer proceeding.

17. Default by Landlord.

17.1 Cure Period. Landlord shall not be deemed to be in default in the performance of any obligation required to be performed by it hereunder unless and until it has failed to perform such obligation within the period of time specifically provided herein, or if no period of time has been provided, then within thirty (30) days after receipt of written notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are reasonably required for its performance, then Landlord shall not be deemed to be in default if it

shall commence such performance within such thirty (30) day period and thereafter diligently prosecute the same to completion.

18. Advertisements and Signs. Tenant shall not place or permit to be placed any sign, display, advertisement, or decoration (collectively "sign") on the exterior of the Building(s) or elsewhere on the Property without the prior written consent of Landlord (which may be granted or withheld in its sole discretion) as to the color, size, style, character, content, and location of each such sign. Tenant shall at its sole expense comply with all codes, ordinances, regulations, and other requirements of the City of Redwood City or other applicable governmental authority relating to any sign Tenant places on or about the Premises. Upon termination of this Lease, Tenant shall remove all signs which it has placed on or about the Property, and shall repair any damage caused by the installation or removal of each such sign. Notwithstanding the above, Tenant shall have the right to leave any signs on the Premises that are there at the Commencement Date.

19. Entry by Landlord. Landlord and its agents shall be entitled to enter into and upon the Premises at all reasonable times, upon two (2) business days written notice to Tenant (except in the case of an emergency, in which event no notice shall be required), for purposes of inspecting or making repairs, alterations or additions to all or any portion thereof, or any other part of the Building(s), including the erection and maintenance of such scaffolding, canopies, fences and props as may be required, or for the purpose of posting notices of non-responsibility for alterations, additions, or repairs. Landlord's rights of entry as set forth in this paragraph shall be subject to the reasonable security regulations of Tenant. During any entry within Tenant's business hours, Landlord shall act in a manner designed to minimize interference with Tenant's business activities on the Premises.

20. Subordination and Attornment.

20.1 Subordination. Tenant agrees that this Lease may, at the option of Landlord, be subject and subordinate to any mortgage, deed of trust, or other instrument of security now of record or which is recorded after the date of this Lease affecting all or any portion of the Premises, and such subordination is hereby made effective without any further act of Tenant. Tenant shall execute and return to Landlord any documents required by the lender to accomplish the purposes of this paragraph, within seven (7) days after delivery thereof to Tenant, and the failure of Tenant to execute and return any such instruments shall constitute a default hereunder.

20.2 Attornment. Tenant shall attorn to any third party purchasing or otherwise acquiring the Premises at any sale or other proceeding, or pursuant to the exercise of any rights, powers or remedies under any mortgages or deeds of trust or ground leases now or hereafter encumbering all or any part of the Premises, as if such third party had been named as Landlord under this Lease.

21. Estoppel Certificates and Financial Statements. Tenant shall within seven (7) days following request by Landlord: (a) execute and deliver to Landlord any

documents, including estoppel certificates, in the form presented to Tenant by Landlord (1) certifying that this Lease has not been modified or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect; (2) stating the date to which the rent and other charges are paid in advance, if at all; (3) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or if there are uncured defaults on the part of Landlord, stating the nature of such uncured defaults; and (4) evidencing the status of this Lease as may be required either by a lender making a loan to Landlord to be secured by a deed of trust or mortgage encumbering the Premises or a purchaser of the Premises from Landlord; and (b) deliver to Landlord the current financial statements of Tenant with an opinion of a certified public accountant, if available, including a balance sheet and profit and loss statement for the then current fiscal year, and the two (2) immediately prior fiscal years (if available), all prepared in accordance with generally accepted accounting principles consistently applied. Tenant's failure to deliver any such documents, including an estoppel certificate, or any such financial statements within seven (7) days following such request shall be an Event of Default hereunder, provided that this Lease shall not be subordinate to any future mortgage, deed of trust, or other instrument of security unless the mortgagee, beneficiary, or other secured party executes an agreement with (and reasonably acceptable to) Tenant pursuant to which such party agrees to recognize Tenant's occupancy and honor the terms of this Lease so long as an Event of Default by Tenant does not occur hereunder.

22. Notices. All notices or demands which either party is required or desires to give to the other shall be given in writing by certified mail, return receipt requested with the appropriate postage paid, by personal delivery, by facsimile (provided receipt of a facsimile transmission is confirmed telephonically or otherwise) or by private overnight courier service to the address or facsimile number set forth below for the respective party, or such other address or facsimile number as either party may designate by written notice to the other. All such notices or demands shall be effective as of actual receipt or refusal of delivery. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day. Notices permitted or required to be given under this Lease shall be delivered to the applicable address or addresses set forth below, provided that either party may change such address by giving written notice to the other party as provided in this section:

If to Tenant: At the address of the Premises.

If to Landlord: City of Redwood City, 1017 Middlefield Road, Redwood City, CA 94063, Attention: City Manager;

With Copies to: City of Redwood City, 1017 Middlefield Road, Redwood City, CA 94063, Attention: City Attorney.

23. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition for any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not

be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No term, covenant or condition shall be deemed to have been waived by either party unless such waiver is in writing and signed by the party making such waiver.

24. No Accord and Satisfaction. No payment by Tenant, or receipt by Landlord, of an amount which is less than the full amount of rent and all other sums payable by Tenant hereunder at such time shall be deemed to be other than on account of (a) the earliest of such other sums due and payable, and thereafter (b) to the earliest rent due and payable hereunder. No endorsement or statement on any check or any letter accompanying any payment of rent or such other sums shall be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to receive payment of the balance of such rent and/or other sums, or Landlord's right to pursue any remedies to which Landlord may be entitled to recover such balance.

25. Attorneys' Fees. If any action or proceeding at law or in equity, or an arbitration proceeding (collectively an "**action**"), shall be brought to recover any rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants, or conditions of this Lease, or for the recovery of possession of the Premises, the prevailing party shall be entitled to recover from the other party as a part of such action, or in a separate action brought for that purpose, its reasonable attorneys' fees and costs and expenses incurred in connection with the prosecution or defense of such action. "**Prevailing Party**" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other is in breach or default, if such action is dismissed upon the other's payment of the sums allegedly due for performance of the covenants allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action, whether or not, such action proceeds to a final judgment or determination.

26. Surrender. Upon the expiration or sooner termination of this Lease, Tenant shall at its sole cost and expense remove all debris and all personal property belonging to Tenant and surrender exclusive possession of the Premises to Landlord in substantially the same condition as of the Commencement Date (including any defects existing as of the Commencement Date, and further subject to reasonable wear and tear and damage arising from casualty or any taking of the Premises by any governmental authority). Any personal property not so removed shall be deemed abandoned, and Landlord may dispose of such personal property at Tenant's sole cost. Notwithstanding the above, Tenant's obligation regarding Hazardous Substances and indemnification relating to any contamination by Tenant or Tenant's Parties during the Term of the Lease shall survive termination. All keys to the Premises or any part thereof shall be surrendered to Landlord upon expiration or sooner termination of the Lease term.

27. Holding Over. This Lease shall terminate without further notice at the expiration of the Lease term. Any holding over by Tenant after expiration shall not constitute a renewal or extension of the Lease term or give Tenant any rights in or to the Premises unless otherwise expressly provided in this Lease. Any holding over after the expiration without the

express written consent of Landlord shall be construed to be a tenancy from month to month, at two hundred percent (200%) of the monthly Base Rent for the last month of the Lease term, and shall otherwise be on the terms and conditions herein specified insofar as applicable, unless otherwise mutually agreed in writing by the parties.

28. Transfer of Premises by Landlord. The term "Landlord" as used in this Lease, so far as the covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner at the time in question of the fee title to the Premises. In the event of any transfer of such fee title, the Landlord herein named (and in case of any subsequent transfer or conveyances, the then grantor) shall after the date of such transfer or conveyance be automatically freed and relieved of all liability with respect to performance of any obligations on the part of Landlord contained in this Lease thereafter to be performed; provided, that any funds in the hands of Landlord or the then grantor at the time of such transfer in which Tenant has an interest, shall be turned over to the grantee and provided further that grantee shall have assumed in writing all of Landlord's obligations to the extent accruing from and after the date of the transfer. The covenants and obligations contained in this Lease on the part of Landlord shall, subject to the foregoing, be binding upon each Landlord hereunder only during his or its respective period of ownership.

29. General Provisions.

29.1 Entire Agreement. This instrument, together with the exhibits attached hereto, contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by an agreement in writing signed by all of the parties hereto or their respective successors in interest. Any executed copy of this Lease shall be deemed an original for all purposes.

29.2 Time. Time is of the essence with respect to the performance of each and every provision of this Lease in which time of performance is a factor. All references to days contained in this Lease shall be deemed to mean calendar days unless otherwise specifically stated. The term "**business days**" means calendar days other than Saturdays, Sundays and holidays recognized by the State of California.

29.3 Captions. The captions and headings of the numbered paragraphs of this Lease are inserted solely for the convenience of the parties hereto, and are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

29.4 California Law. This Lease shall be construed and interpreted in accordance with the laws of the State of California. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant, and without reference to which party prepared this Lease.

29.5 Gender, Singular and Plural. When required by the context of this Lease, the neuter includes the masculine, the feminine, a partnership, a corporation, or a joint venture, and the singular shall include the plural.

29.6 Partial Invalidity. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall nonetheless continue in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

29.7 No Warranties. Any agreements, warranties or representations not expressly contained herein shall not bind either Landlord or Tenant, and Landlord and Tenant expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not expressly contained in this Lease.

29.8 Joint and Several Liability. If Tenant is more than one person or entity, each such person or entity shall be jointly and severally liable for the obligations of Tenant hereunder.

29.9 Binding on Successors. The covenants and conditions herein contained, subject to the provisions as to assignment, shall apply to and be binding upon the parties hereto and their respective heirs, executors, administrator, assigns, and other successors in interest.

29.10 Authority. The parties hereby represent and warrant that they have all necessary power and authority to execute and deliver this Lease on behalf of Landlord and Tenant, respectively.

29.11 Memorandum of Lease. Neither Landlord nor Tenant shall record this Lease or a short form memorandum hereof without the prior written consent of the other.

29.12 Merger. The voluntary or other surrender of this Lease, or a mutual cancellation thereof, shall not work an automatic merger, but shall, at the sole option of Landlord, either terminate all or any existing subleases or subtenancies, or operate as an assignment to Landlord of any or all of such subleases or subtenancies.

29.13 Force Majeure. Any prevention of or delay in the performance by a party hereto of its obligations under this Lease caused by inclement weather, labor disputes (including strikes and lockouts), inability to obtain materials or reasonable substitutes therefor, governmental restrictions, regulations, controls, action or inaction, civil commotion, fire or other causes beyond the reasonable control of the party obligated to perform (except financial inability), shall excuse the performance by such party of its obligations hereunder (except the obligation of Tenant to pay rent and other sums hereunder) for a period of one day for each such day of delay

29.14 Advice of Advisors. Each party to this Lease acknowledges and agrees that it has obtained and relied upon its own legal counsel and other advisors to evaluate the tax, accounting and legal consequences of entering into this Lease and consummating the transactions contemplated hereby, and, except as set forth in this Lease, neither party is relying on any representations or warranties of the other party to this Lease.

30. Relocation Assistance.

30.1 Waiver of Relocation Assistance. Tenant acknowledges and agrees that at the closing of the sale of the Property from Owner to Landlord, Owner has received from Landlord the sum of One Million Dollars (\$1,000,000) (the “**Relocation Compensation**”) as full and complete payment on account of all of Owner’s and Tenant’s costs to relocate their businesses to another location and for disruption their businesses and that such amount constitutes full and complete satisfaction of any obligation that Landlord may have for providing relocation assistance to Owner and/or Tenant and paying their relocation costs, if any, required to comply with all applicable federal, state and local laws, rules and regulations arising out of, based upon, or relating to, relocation assistance or benefits owing under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq. or under any other federal, state or local relocation statutes, regulations or guidelines, including but not limited to, any such regulations or guidelines of the City of Redwood City or the County of San Mateo (collectively, “**Relocation Benefits**”). Tenant acknowledges and agrees that Tenant and Owner have reached a separate agreement between themselves pursuant to which the Relocation Compensation shall be shared by Owner and Tenant. Accordingly, Tenant, for itself and for its agents, successors, assigns, fully releases, acquits and discharges Landlord and its officers, officials, members, directors, council members, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (collectively, the “**Released Parties**”), from all suits, causes of action, claims, liabilities, damages, losses, fees, fines, costs and expenses including attorneys’ and experts’ fees (collectively, “**Claims**”) that Tenant, or any of them, has or may have against the Released Parties for all Relocation Benefits arising out of or related to Landlord’s acquisition of the Property, the termination of Tenant’s prior lease of the Property, this Lease, the termination of this Lease for any reason, any taking of the Property under power of eminent domain, and/or the displacement of Tenant from the Property. Tenant shall look solely to the Owner, and not to the Released Parties, for any and all Relocation Benefits.

30.2 Waiver of Property Rights and Interests. Tenant for itself and for its agents, successors and assigns fully releases, acquits and discharges Landlord and the Released Parties from all Claims that Tenant, its agents, successors and assigns has or may have against the Released Parties arising out of or related to Landlord’s acquisition of the Property, the termination of this Lease, and/or the displacement of Tenant from the Property including, without limitation, all of Tenant’s property rights and interests in the Property, including but not limited to (i) all leasehold interests and rights of tenancy or occupancy, (ii) all improvements, including improvements pertaining to the realty, furniture, fixture, and equipment, (iii) business goodwill

and lost income (past or future) relating to the Property, (iv) Tenant's failure to locate a suitable replacement location, (v) lost rental income or sublease or license income, (vi) severance damages and pre-condemnation damages, if any, (vii) economic or consequential damages, (viii) professional consultant fees, attorney's fees and costs, expert witness fees and costs, interest, and (ix) all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Tenant, its agents, successors and assigns by reason of Landlord's acquisition of the Property, this Lease, the termination of this Lease for any reason, any taking of the Property under power of eminent domain, and/or the displacement of Tenant from the Property.

30.3 Waiver of Civil Code Section 1542. Tenant, on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Tenant and its agents, successors and assigns, and any business, enterprise, or venture in which they are involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters Released in Section 30.1 or Section 30.2 above. Section 1542 provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Tenant's Initials: _____

30.4 Indemnification. Tenant acknowledges that Landlord is relying on Tenant's covenants that pursuant to this Lease there are and shall be no tenants or occupants of the Property other than Tenant. In the event that Tenant breaches such covenants with respect to the existence of other occupants or lessees of the Property, then without limiting Landlord's recourse for Tenant's breach of such representations and warranties, if such other tenants or occupants shall be entitled to Relocation Benefits, Tenant shall have the sole and exclusive responsibility for providing all such Relocation Benefits and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations and satisfying all Claims of such parties. Tenant hereby agrees to indemnify, defend, protect and hold the Released Parties harmless from and against any Claims asserted against or sustained by the Released Parties arising from the presence or claims of any tenants or occupants of the Property (other than Tenant) or any third party who has been granted an interest in the Property by or through Tenant, including without limitation claims for Relocation Benefits and inverse condemnation.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the dates specified below immediately adjacent to their respective signatures. Delivery of this Lease to Landlord, duly executed by Tenant, constitutes an offer by Tenant to lease the Premises as herein set forth, and under no circumstances shall such delivery be deemed to create an option or reservation to lease the Premises for the benefit of Tenant. This Lease shall only become effective and binding upon execution of this Lease by Landlord and delivery of a signed copy to Tenant.

LANDLORD:

CITY OF REDWOOD CITY,

a charter city and municipal corporation of the State of California

By: _____

Name: _____

Its: _____

Dated: _____

ATTEST:

Silvia Vonderlinden, City Clerk

TENANT:

CONTINENTAL TOOL COMPANY, INC.

a California corporation

By: _____

Name: _____

Its: _____

Dated: _____

EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

PARCEL ONE:

PORTION OF LOT 4 AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE 3, SAID PORTION OF LOT 4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 4;
THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT AND ALONG THE SOUTHWESTERLY LINE OF CHEMICAL WAY, AS SAID WAY IS SHOWN ON THE ABOVE MENTIONED MAP, SOUTH 55° 13' 12" EAST 44.61 FEET TO THE BEGINNING, OF A TANGENT CURVE TO THE RIGHT;
THENCE ALONG SAID CURVE, HAVING A RADIUS OF 98 FEET, THROUGH A CENTRAL ANGLE OF 66° 28' 12" AN ARC LENGTH OF 113.69 FEET TO THE BEGINNING OF A COMPOUND CURVE;
THENCE ALONG THE LAST SAID CURVE, HAVING A RADIUS OF 50 FEET, THROUGH A CENTRAL ANGLE OF 43° 58' 35" AN ARC LENGTH OF 38.38 FEET TO THE BEGINNING OF A REVERSE CURVE;
THENCE ALONG THE LAST SAID CURVE, HAVING A RADIUS OF 57 FEET, THROUGH A CENTRAL ANGLE OF 47° 37' 59" AN ARC LENGTH OF 47.39 FEET;
THENCE LEAVING SAID NORTHEASTERLY LINE OF LOT 4 AND SAID SOUTHWESTERLY LINE OF CHEMICAL WAY ON A NON-RADIAL LINE, SOUTH 67° 30' 00" WEST 45.66 FEET;
THENCE NORTH 59° 09' 15" WEST 100.83 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID LOT 4;
THENCE ALONG THE LAST SAID LINE, NORTH 30° 50' 45" EAST 188.03 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

PORTION OF LOT 4 AS SAID LOT IS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE 3, SAID PORTION OF LOT 4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 4; THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT, NORTH 30° 50' 45" EAST 173.61 FEET; THENCE LEAVING THE LAST SAID LINE, SOUTH 59° 09' 15" EAST 100.83 FEET; THENCE NORTH 67° 30' 00" EAST 45.66 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF CHEMICAL WAY, AS SAID WAY IS SHOWN ON THE ABOVE MENTIONED MAP; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE OF CHEMICAL WAY, ALONG THE ARC OF A CURVE TO THE LEFT, TANGENT TO A BEARING OF SOUTH 7° 35' 36" WEST, SAID CURVE HAVING A RADIUS OF 57 FEET, THROUGH A CENTRAL ANGLE OF 52° 10' 01", AN ARC LENGTH OF 51.90 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE OF CHEMICAL WAY, SOUTH 67° 30' 00" WEST 98.49 FEET; THENCE SOUTH 30° 11' 59" WEST 97.35 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 4; THENCE NORTHWESTERLY ALONG THE LAST SAID LINE, NORTH 59° 48' 01" WEST 108.42 FEET TO THE POINT OF BEGINNING

EXHIBIT B

RULES AND REGULATIONS

Tenant shall comply with the following rules and regulations (as modified or supplemented from time to time, the "**Rules and Regulations**"). Landlord shall not be responsible to Tenant for the nonperformance of any of the Rules and Regulations by any other tenants or occupants of the Property. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Upon the expiration or earlier termination of the Lease, Tenant shall deliver to Landlord all keys and passes for offices, rooms, parking lot and toilet rooms which shall have been furnished Tenant.

2. Tenant shall not throw anything out of doors, windows or skylights or down passageways.

3. The Premises shall not be used for lodging, for living quarters or sleeping apartments, or for any improper, objectionable or immoral purposes.

4. Landlord reserves the right to exclude from the Property any person who, in Landlord's judgment, is intoxicated or under the influence of liquor or drugs, or who violates any of these Rules and Regulations.

5. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by any governmental agency.

6. Tenant must comply with the State of California "No-Smoking" law set forth in California Labor Code Section 6404.5 and with any local "No-Smoking" ordinance that may be in effect from time to time and is not superseded by such law.

7. Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises or the Property. Tenant assumes all responsibility for the protection of Tenant and its agents, employees, contractors and invitees, and the property thereof, from acts of third parties, including responsibility for keeping doors locked and other means of entry to the Premises closed, whether or not Landlord, at its option, elects to provide security protection for any portion of the Property. Tenant further assumes the risk that any safety or security device, service or program that Landlord elects, in its sole and absolute discretion, to provide may not be effective, or may malfunction or be circumvented by an unauthorized third party, and Tenant shall, in addition to its other insurance obligations under this Lease, obtain its own insurance coverage to the extent Tenant desires protection against losses resulting from such occurrences. Tenant shall cooperate in any reasonable safety or security program developed by Landlord or required by Law.

8. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without Landlord's prior written consent.

EXHIBIT C

HAZARDOUS SUBSTANCES DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Substances Disclosure Certificate is necessary for the Landlord to evaluate your proposed uses of the premises (the "**Premises**") and to determine whether to enter into a lease agreement with you as tenant. If a lease agreement is signed by you and the Landlord (the "**Lease Agreement**"), on an annual basis in accordance with the provisions of Section 4.4(f) of the Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to the Landlord at the address set forth in the Lease Agreement:

Name of (Prospective) Tenant: _____

Mailing Address: _____

Contact Person, Title and Telephone Number(s): _____

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s):

Address of (Prospective) Premises: _____

Length of (Prospective) initial Term: _____

1. GENERAL INFORMATION:

Describe the proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled, and services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

2. USE, STORAGE AND DISPOSAL OF HAZARDOUS SUBSTANCES

- 2.1 Will any Hazardous Substances (as hereinafter defined) be used, generated, treated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Substances which continue to be used, generated, treated, stored or disposed of in, on or about the Premises.

Wastes Yes ☐ No ☐

Chemical Products Yes ☐ No ☐

Other Yes ☐ No ☐

If Yes is marked, please explain: _____

- 2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Substances to be used, generated, treated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Substances to be present on or about the Premises at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws, as hereinafter defined); and the proposed location(s) and method(s) of treatment or disposal for each Hazardous Substance, including, the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

Is any above or below ground storage or treatment of gasoline, diesel, petroleum, or other Hazardous Substances in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes ☐ No ☐

If yes, please explain: _____

4. WASTE MANAGEMENT

- 4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes ☐ No ☐

- 4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes ☐ No ☐

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

_____ storm drain?

_____ sewer?

_____ surface water?

_____ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes ☐ No ☐

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes ☐ No ☐

If yes, please explain: _____

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

_____ Spray booth(s)

_____ Incinerator(s)

_____ Dip tank(s)

_____ Other (Please describe)

_____ Drying oven(s) _____ No Equipment Requiring Air Permits

If yes, please explain: _____

- 6.3 Please describe (and submit copies of with this Hazardous Substances Disclosure Certificate) any reports you have filed in the past thirty-six months with any governmental or quasi-governmental agencies or authorities related to air discharges or clean air requirements and any such reports which have been issued during such period by any such agencies or authorities with respect to you or your business operations.

7. HAZARDOUS SUBSTANCES DISCLOSURES

- 7.1 Has your company prepared or will it be required to prepare a Hazardous Substances management plan ("**Management Plan**") or Hazardous Substances Business Plan and Inventory ("**Business Plan**") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes ☐ No ☐

If yes, attach a copy of the Management Plan or Business Plan. Existing tenants should attach a copy of any required updates to the Management Plan or Business Plan.

- 7.2 Are any of the Hazardous Substances, and in particular chemicals, proposed to be used in your operations in, on or about the Premises listed or regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Substances being so used which are listed or regulated under Proposition 65.

Yes ☐ No ☐

If yes, please explain: _____

8. ENFORCEMENT ACTIONS AND COMPLAINTS

- 8.1 With respect to Hazardous Substances or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes ☐ No ☐

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered to Landlord pursuant to the provisions of Section 4.4(f) of the Lease Agreement.

- 8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes ☐ No ☐

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Section 4.4(f) of the Lease Agreement.

- 8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises and the current status of any such problems or complaints.

Yes ☐ No ☐

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement and the current status of any such problems or complaints.

9. PERMITS AND LICENSES

Attach copies of all permits and licenses issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any Hazardous Substances permits, wastewater discharge permits, air emissions permits, and use permits or approvals.

Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

As used herein, "Hazardous Substances" and "Environmental Laws" shall have the meanings given to such terms in the Lease Agreement.

The undersigned hereby acknowledges and agrees that this Hazardous Substances Disclosure Certificate is being delivered to Landlord in connection with the evaluation of a Lease Agreement and, if such Lease Agreement is executed, will be attached thereto as an exhibit. The undersigned further acknowledges and agrees that if such Lease Agreement is executed, this Hazardous Substances Disclosure Certificate will be updated from time to time in accordance with the Lease Agreement. The undersigned further acknowledges and agrees that the Landlord and its partners, lenders and representatives may rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the Term of the Lease Agreement.

Tenant hereby certifies, represents and warrants that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

By: _____

Title: _____

Schedule 12(d)

Hazardous Materials Disclosure

Owner discloses to Optionee that the Real Property is located within 2,000 feet from the real property commonly known as 70 Chemical Way, Redwood City, California (the “**Adjacent Property**”). The Adjacent Property is the subject of on-going groundwater monitoring under the oversight of the Regional Water Quality Control Board, San Francisco Region. As provided in **Paragraph 10(b)** of this Agreement, within three (3) days after the Execution Date Owner shall provide Optionee with copies of the documentation, if any, in its possession describing the scope of contamination at the Adjacent Property and the Property (including the types and quantities of Hazardous Materials).

Owner further discloses to Optionee that the Tenant uses machine oils mixed with water in connection with the operation of a compressor press at the Real Property. The liquid generated from the use of this oil is cleaned up regularly with dry sweep and placed in a 55-gallon drum that is removed once a year by a licensed waste handling company.

REAL ESTATE OPTION AGREEMENT

50 CHEMICAL WAY

THIS REAL ESTATE OPTION AGREEMENT (this "**Agreement**") is dated for reference purposes as of October 1, 2010 (the "**Agreement Date**") and is made and entered into by and between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California ("**Optionee**"), and **LAS CRUCES HOLDINGS, LLC**, a California limited liability company ("**Owner**").

RECITALS

A. Owner is the owner of certain improved real property along with certain related tangible and intangible personal property.

B. Optionee desires to acquire the exclusive option to purchase such property from Owner on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Optionee and Owner hereby agree as follows:

AGREEMENT

1. Grant of Option to Purchase; Consideration

(a) Grant of Option. Subject to the terms and conditions of this Agreement, Owner hereby grants to Optionee the exclusive right and option (the "**Option**") to purchase the following:

(i) The real property commonly known as 50 Chemical Way, consisting of approximately 1.44 acres of land, having Assessor Parcel Numbers 052-392-260 and 0052-392-210, located in the City of Redwood City (the "**City**"), County of San Mateo (the "**County**"), California, as more particularly described in Exhibit A attached hereto (the "**Land**");

(ii) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "**Appurtenances**");

(iii) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services,

refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which are collectively referred to as the “**Improvements**” and, together with the Land and the Appurtenances, the “**Real Property**”); and

(iv) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and Improvements, including, without limitation, (i) the right to use any trade name now used in connection with the Real Property, (ii) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (iii) all existing warranties and guaranties (express or implied) relating to the Real Property, (iv) Owner's rights under any agreements relating to maintenance and service of the Real Property and other rights relating to the ownership, use and operation of the Real Property (the “**Contracts**”), (v) Owner's rights under that certain Standard Industrial/Commercial Lease Single-Tenant Lease-Net between Owner (as the landlord) and Airgas-Northern California and Nevada, Inc (“**Tenant**”), dated September 24, 2007 (the “**Lease**”), (vi) the Property Documents (as defined in **Paragraph 10(b)**), and (vii) all other intangible rights or claims that run with or relate to the Real Property (collectively, the “**Personal Property**” and, together with the Real Property, the “**Property**”). Notwithstanding the foregoing, Optionee shall not be deemed to have assumed any obligations of Owner under any Contract or other agreement unless Optionee expressly assumes such obligations in writing.

(b) Non-Refundable Option Payment. As good and adequate consideration for the grant of the Option, within one (1) business day following the Opening of Escrow (as defined in **Paragraph 4(a)**), Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with First American Title Company (the “**Escrow Holder**”) at its office at 901 Mariners Island Boulevard, Suite 380, San Mateo, California, 94404 (attention: Karen Matsunaga, telephone (650) 638-9106), a cash sum equal to Two Thousand Dollars (\$2,000) (the “**Option Payment**”). Owner acknowledges that the Option Payment constitutes good, adequate and reasonable consideration for the grant of the Option, taking into account, among other things, the Purchase Price (as defined in **Paragraph 3(a)**) for the Property, the appraised value of the Property, and the length of the Option Term (as defined in **Paragraph 2(a)**). In addition, Owner acknowledges that Optionee will incur additional costs and expenses in evaluating the Property during the Feasibility Period (as defined in **Paragraph 10(a)**) and that Optionee's expenditure of such funds constitutes additional and adequate consideration for the grant of the Option. Following the Opening of Escrow the Option Payment shall not be refundable under any circumstances and shall immediately be released to Owner from Escrow. The Option Payment shall be credited to the Purchase Price.

(c) Refundable Initial Deposit. In addition to the Option Payment, concurrent with the deposit of the Option Payment into Escrow, Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with Escrow Holder a cash sum equal to Forty-Eight Thousand Dollars (\$48,000) (the “**Initial Deposit**”). While in Escrow, the Initial Deposit shall be held in an interest-bearing account by the Escrow Holder for the benefit of Optionee. The Initial Deposit and any interest earned thereon while in the Escrow shall be applicable to the Purchase Price (as defined below). If Optionee provides the Notice to Proceed (as defined in **Paragraph 10(a)** hereof) prior to the expiration of the Feasibility Period, the Initial Deposit shall become non-refundable (except if Owner defaults on its obligations herein or as otherwise expressly provided for herein) and shall remain in Escrow pending the Closing (as defined in

Paragraph 4(c) hereof) or earlier termination of this Agreement; provided, however, that if Optionee exercises the first Extension Option (as defined in **Paragraph 2(b)**), then the Initial Deposit shall be released from Escrow and paid to Owner concurrently with Optionee's exercise of such Extension Option. If Optionee does not provide the Notice to Proceed prior to the expiration of the Feasibility Period, Owner and Optionee hereby authorize Escrow Holder to immediately release the Initial Deposit (and all of the interest earned thereon) to Optionee at the expiration of the Feasibility Period without any additional documentation required from the parties. Owner releases Escrow Holder from all liability in connection with the release of the Initial Deposit to Optionee in accordance with the preceding sentence, and following such release of the Initial Deposit, neither party shall have any further rights or obligations hereunder (other than those arising from a party's breach of this Agreement or otherwise as expressly provided herein). The Initial Deposit shall be credited to the Purchase Price.

(d) **Additional Deposits.** If this Agreement is not terminated during or at the end of the Feasibility Period, and if Optionee exercises any of its Extension Options as provided in **Paragraph 2(b)**, then concurrently with the exercise of any such Extension Option, Optionee shall deposit into Escrow additional payments (each, an "**Additional Deposit**") in accordance with the terms and conditions of **Paragraph 2(b)**. The Additional Deposits shall constitute good and adequate consideration for the extension of the Option and once released to Owner shall not be refundable to Optionee (even if Optionee never exercises the Option) except in the event of a breach or default by Owner or the failure of a condition to Closing pursuant to **Paragraph 10**.

(e) **Deposits Defined.** As used in this Agreement, the term "**Deposits**" means the Initial Deposit and each Additional Deposit, if any, that Optionee deposits in Escrow as provided in **Paragraph 2(b)** below. Each Deposit shall be either an "**Applicable Deposit**" or a "**Non-Applicable Deposit**." The Initial Deposit and each Applicable Deposit, if any, made by Optionee that is designated as an Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed "**Applicable Deposits**" and shall be credited to the Purchase Price at the Closing. Each Additional Deposit, if any, that is made by Optionee and that is designated as a Non-Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed a "**Non-Applicable Deposit**" and shall not be credited to the Purchase Price.

2. Option Term; Exercise of Option.

(a) **Option Term.** The term of the Option shall commence upon the date that this Agreement has been executed and delivered by both Owner and Optionee, as evidenced by the last date set forth below the signatures of Owner and Optionee hereto (the "**Execution Date**"), and shall expire on December 27, 2010 (the "**Initial Option Term**"), unless earlier exercised or extended pursuant to **Paragraph 2(b)** below. As used in this Agreement, the term "**Option Term**" means the Initial Option Term plus each Extension Period with respect to which Optionee has exercised an Extension Option pursuant to **Paragraph 2(b)**.

(b) **Extension of Option Term.** Notwithstanding **Paragraph 2(a)** or any other provision of this Agreement to the contrary, but subject to **Paragraph 4(d)** below, Optionee shall have the right to extend the Initial Option Term up to twelve (12) times (each, an "**Extension Option**") for twelve (12) consecutive periods of approximately one-month each (each, an "**Extension Period**"), as set forth in the table below (the "**Table**"). In order to exercise the first

Extension Option (i.e., for the period from December 27, 2010, through January 31, 2011), on or before close of business on December 27, 2010, Optionee shall (i) notify Escrow Holder and Owner that Optionee elects to exercise the first Extension Option, (ii) instruct Escrow Holder to release to Owner the Initial Deposit, and (iii) deposit into Escrow for immediate release to Owner the Additional Deposits in the amount set forth in the Table that corresponds to the first Extension Period. In order to exercise the second (and each subsequent) Extension Option, Optionee shall (x) notify Escrow Holder and Owner on or before the commencement of the applicable Extension Period that Optionee elects to exercise the Extension Option corresponding to such Extension Period and (y) deposit into Escrow for immediate release to Owner the Applicable Deposit or the Non-Applicable Deposit, as the case may be, that corresponds to each such Extension Period, in accordance with the Table below:

<u>Extension Period</u>	<u>Applicable Deposit</u>	<u>Non-Applicable Deposit</u>	<u>Total Deposits</u>
12/27/2010 through 1/31/2011	\$104,000 (comprised of the Initial Deposit of \$48,000, plus an Additional Deposit of \$56,000)	\$52,000	\$156,000
2/1/2011 through 2/28/2011	\$0.00	\$26,000	\$26,000
3/1/2011 through 3/31/2011	\$0.00	\$26,000	\$26,000
4/1/2011 through 4/30/2011	\$0.00	\$26,000	\$26,000
5/1/2011 through 5/31/2011	\$0.00	\$26,000	\$26,000
6/1/2011 through 6/30/2011	\$26,000	\$0.00	\$26,000
7/1/2011 through 7/31/2011	\$26,000	\$0.00	\$26,000
8/1/2011 through 8/31/2011	\$26,000	\$0.00	\$26,000
9/1/2011 through 9/30/2011	\$26,000	\$0.00	\$26,000
10/1/2011 through	\$26,000	\$0.00	\$26,000

10/31/2011			
11/1/2011 through 11/30/2011	\$26,000	\$0.00	\$26,000
12/1/2011 through 12/28/2011	\$26,000	\$0.00	\$26,000

(c) Exercise of Option. The Option shall be exercisable by Optionee in its sole and absolute discretion at any time during the Option Term, and shall be exercised, if at all, by delivery to Owner and the Escrow Holder within the Option Term of written notice (the “**Exercise Notice**”) of Optionee’s exercise of the Option. If Optionee exercises the Option, then (i) Optionee shall not be required to make any Additional Deposits, (ii) Optionee shall be obligated to purchase the Property, subject to the terms and conditions of this Agreement, and (iii) the parties shall proceed to the Closing as provided in **Paragraph 4(c)** and the other applicable provisions of this Agreement. If Optionee exercises an Extension Option, then the Option Term shall be extended for the Extension Period corresponding to such Extension Option. If the Option is not exercised as provided herein on or before the expiration of the Option Term, or if the Option Term is not extended as provided in **Paragraph 2(b)**, then subject to **Paragraph 21** below, the Option shall lapse and be of no further force or effect.

(d) Limitations on Extension Options. Owner acknowledges that Optionee is considering the purchase of the Property, together with certain adjacent properties that Optionee also desires to acquire the option to purchase (collectively, the “**Site**”), in order to redevelop the Site for public purposes (the “**Project**”). In order to proceed with the Project, Optionee may be required to undertake certain environmental and other studies and to obtain certain approvals or clearances that are necessary or appropriate for the redevelopment of the Site, including without limitation the subdivision, re-subdivision or merger of the various parcels comprising the Site, zoning and/or general plan changes, and compliance with the California Environmental Quality Act and applicable regulations and requirements relating to the Project (collectively, the “**Project Approvals**”). Optionee shall work in good faith to obtain the Project Approvals, provided that Optionee makes no assurances that it will be successful in obtaining the Project Approvals or the time required to obtain the Project Approvals. However, if Optionee obtains the Project Approvals, then notwithstanding that Optionee may have one or more unexercised Extension Options at the time it obtains the Project Approvals, the Option Term shall be deemed to have expired on the date that is thirty (30) days after the Project Approvals have been finally approved. As used in this **Paragraph 2(d)**, the Project Approvals shall be deemed to have been “**finally approved**” only after all applicable governmental authorities and public agencies having jurisdiction thereof (collectively, the “**Governmental Authorities**”) have granted, certified, or otherwise issued the Project Approvals and all applicable appeal periods for such Project Approvals shall have expired without an appeal or challenge having been taken or made or, if any such appeal or challenge is taken or made, then upon resolution of that appeal or challenge without any change or revision thereto as originally approved by the Governmental Authorities,

or with only changes or revisions being made thereto which are approved by Optionee in its reasonable discretion.

3. Purchase Price; Loan Prepayment Fee.

(a) Purchase Price. The purchase price for the Property shall be Five Million Two Hundred Thousand Dollars (\$5,200,000) (the "**Purchase Price**"). If Optionee exercises the Option, the Purchase Price shall be paid by Optionee to Owner at the Closing as follows: (a) Optionee shall receive a credit to the Purchase Price equal to the sum of the Option Payment, the Initial Deposit, and all Applicable Deposits made by Optionee, plus all interest accrued on the Deposits while in Escrow, and (b) Optionee shall deposit into the Escrow at or prior to the Closing for delivery to Owner a sum (the "**Closing Payment**") equal to the balance of the Purchase Price.

(b) Loan Prepayment Fee. The Property currently is encumbered by a deed of trust (the "**Deed of Trust**") securing a Loan (the "**Loan**") evidenced by a promissory note (the "**Note**") in the original principal amount of Two Million Five Hundred Thousand Dollars \$2,500,000 (the "**Loan**") in favor of American United Life Insurance Company ("Lender"). The Deed of Trust was recorded on July 3, 2008, as Instrument No. 2008-077567 of the official records of San Mateo County, California. At the Closing, Owner shall cause the deed of trust and any other documents evidencing or securing the Loan to be released and reconveyed. To the extent that a prepayment fee or premium (the "**Prepayment Fee**") is required to be paid to the Lender pursuant to the Note, the Deed of Trust or the other documents evidencing the Loan as a condition to the prepayment of the Loan and/or the release and reconveyance of such documents in connection with the Closing of the sale of the Property to Optionee, Optionee shall pay, in addition to the Purchase Price, such fee at the Closing; provided, however, that Optionee's obligation to pay the Prepayment Fee shall arise if, and only if, the Closing occurs, and Optionee's obligation to pay the Prepayment Fee shall not exceed, in the aggregate, Five Hundred Thousand Dollars (\$500,000) ("**Optionee's Prepayment Fee Contribution**"). The Optionee's Prepayment Fee Contribution shall be paid through Escrow at (and subject to the occurrence of) the Closing. As a condition precedent to Optionee's obligation to make the Optionee's Prepayment Fee Contribution, Owner shall provide Optionee with copies of all correspondence between Owner and the Lender regarding the Prepayment Fee, including without limitation the Lender's written demand for such payment together with all information and calculations used in determining the amount of the Prepayment Fee. To the extent that any other amounts are required to be paid to the Lender (including without limitation, principal, interest, reconveyance fees, or other fees or costs of any kind), Owner shall be solely responsible for paying such amounts without reimbursement from Optionee.

4. Escrow.

(a) Opening of Escrow. Promptly after the full execution and delivery of this Agreement, the parties will open an escrow (the "**Escrow**") with Escrow Holder and shall deposit with Escrow Holder a copy of this fully executed Agreement, or executed counterparts hereof. The "**Opening of Escrow**" shall be deemed to have occurred on the date following the execution and delivery of this Agreement by Optionee and Owner that Escrow Holder executes the

“Acceptance of Escrow Holder” immediately following the signature pages of this Agreement (the “**Acceptance**”) and returns to Optionee and Owner such Acceptance.

(b) Instructions and Fees. This Agreement constitutes joint instructions to the Escrow Holder to consummate the purchase in accordance with the terms and provisions hereof; provided, however, that the parties shall execute such additional escrow instructions, not inconsistent with the provisions hereof, as may be deemed reasonably necessary to carry out the intentions of the parties as expressed herein. If the Closing occurs, Optionee shall pay the cost of the title insurance premium for the Title Policy (as defined in **Paragraph 5(c)**) and City and County documentary transfer taxes, if any. If the Closing occurs, Owner shall pay the costs of removing any exceptions to title (other than Permitted Exceptions), as defined in **Paragraph 5(a)**, and Personal Property Encumbrances, as defined in **Paragraph 5(d)**. Escrow Fees, recording fees, and any other closing costs shall be borne by the parties in accordance with the custom of the County.

(c) Closing. The “**Closing**” shall occur on a date selected by Optionee (either following or concurrently with the exercise of the Option), provided that Owner has received at least fifteen (15) days prior written notice of such date (the “**Closing Date**”), and provided further that the Closing Date shall occur not earlier than thirty (30) days after the Opening of Escrow and no later than thirty (30) days after Optionee’s exercise of the Option pursuant to **Paragraph 2(c)** (the “**Outside Date**”). If Optionee exercises the Option but fails to provide Owner with at least fifteen (15) days prior written notice of the Closing Date, then unless otherwise agreed in writing by Optionee and Owner the Closing Date shall be the Outside Date. The Closing shall occur only after (i) Optionee has exercised the Option, (ii) all parties to Escrow have fully performed their respective duties, (iii) Escrow Holder is irrevocably committed to issue to Optionee the Title Policy, and (iv) nothing remains to be done in order to transfer to Optionee fee title to the Real Property other than Escrow Holder’s recordation of Owner’s grant deed (the “**Grant Deed**”) with the County recorder; provided that the Closing shall be deemed to have occurred only upon recordation of the Grant Deed with the County recorder.

5. Title.

(a) Title Review. Within ten (10) days after the Opening of Escrow, Optionee shall obtain a current preliminary title report for the Real Property issued by Escrow Holder, together with legible and complete copies of all underlying documents referenced as exceptions in the Title Report and a plot plan for the Real Property showing the locations of all recorded easements (collectively, the “**Title Report**”). Optionee shall have the right to obtain an ALTA survey or other survey (the “**Survey**”) of the Real Property at Optionee’s sole cost and, if it obtains the Survey, Optionee shall provide Owner with a copy of it. Within fifteen (15) business days following Optionee’s receipt of both the Title Report and the Survey (collectively, the “**Title Documents**”) but not later than November 10, 2010, Optionee shall either approve in writing the exceptions contained in the Title Documents or specify in writing any exceptions or other matters shown on the Survey to which Optionee objects. All title exceptions and Survey matters not objected to, as well as the Lease and the lien for current taxes not yet delinquent, shall be referred to as “**Permitted Exceptions**,” except for the following (collectively, “**Owner Removal Items**”): liens of deeds of trust or other monetary obligations, judgment liens, and leases or other occupancy agreements (other than the Lease), none of which shall constitute

“Permitted Exceptions.” Owner shall have ten (10) days after receipt of such notice to advise Optionee by written notice of any disapproved exceptions or matters which will not be removed from title by Owner prior to the Closing (other than Owner Removal Items, which Owner shall be required to remove prior to the Closing). If Optionee provides the Notice to Proceed to Owner during the Feasibility Period, the exceptions contained in the Owner’s notice (other than Owner Removal Items) shall be deemed additional Permitted Exceptions.

(b) New Exceptions. If any new exceptions or matters are first included in any supplement or update to the Title Report issued after the expiration of the Feasibility Period (collectively, “**New Exceptions**”), Optionee shall notify Owner in writing on or before 5:00 p.m. Pacific Time within three (3) business days after receipt of such supplement if Optionee disapproves some or all of the New Exceptions (the “**New Exceptions Objection Notice**”). If Optionee timely delivers to Owner a New Exceptions Objection Notice, Owner shall thereafter have five (5) business days to determine whether Owner is willing to remove the New Exceptions (the “**Decision Period**”) and deliver notice to Optionee. If at the end of the Decision Period Owner is unwilling to remove the New Exceptions, and if Optionee is unwilling to waive its objections, then either party may terminate this Agreement upon notice to the other. If Optionee waives its objections and elects to proceed to Closing, the New Exceptions shall be deemed to be Permitted Exceptions and Optionee shall not be entitled to any reduction in the Purchase Price. In the event that Owner fails to deliver Owner’s response notice to Optionee as set forth in this **Paragraph 5(b)**, Owner shall be deemed to have elected not to remove the New Exceptions. If prior to the end of the Decision Period Owner advises Optionee that Owner is willing to remove the New Exceptions, then Owner thereafter shall cause the New Exceptions to be removed by the Closing Date. Notwithstanding the foregoing, Owner shall be required to remove at its sole cost any New Exceptions that constitute Owner Removal Items, irrespective of whether Optionee expressly has objected to such exceptions or items.

(c) Title Delivered at Closing. By executing the Grant Deed, Owner shall convey to Optionee (or to such other person or entity as Optionee may designate) marketable fee title to the Real Property subject only to the Permitted Exceptions. Immediately following recordation of the Grant Deed, Escrow Holder shall issue to Optionee an ALTA extended coverage owner’s policy of title insurance (2006 form), with coverage in the amount of the purchase price for the Real Property, showing fee simple title to the Real Property vested in Optionee, subject only to the Permitted Exceptions (the “**Title Policy**”).

(d) Personal Property Encumbrances. To the extent that any of the Personal Property is encumbered by Uniform Commercial Code financing statements or other liens or encumbrances (“**Personal Property Encumbrances**”), Owner shall cause such Personal Property Encumbrances to be released or otherwise removed prior to the Closing.

6. Liquidated Damages. OPTIONEE AND OWNER AGREE THAT IF OPTIONEE EXERCISES THE OPTION PURSUANT TO **PARAGRAPH 2(c)** AND THEREAFTER DEFAULTS ON ITS OBLIGATION TO PURCHASE THE PROPERTY PURSUANT HERETO, THE DAMAGES TO OWNER WOULD BE DIFFICULT AND IMPRACTICAL TO DETERMINE. ACCORDINGLY, IN THE EVENT OF SUCH DEFAULT BY OPTIONEE, OPTIONEE AND OWNER HAVE AGREED TO FIX AS LIQUIDATED DAMAGES THE DEPOSITS, BUT ONLY TO THE EXTENT THE DEPOSITS HAVE THERETOFORE BEEN

DEPOSITED WITH ESCROW HOLDER OR PAID DIRECTLY TO OWNER, AND SUCH DEPOSITS SHALL BE RETAINED BY OWNER AS LIQUIDATED DAMAGES, AND SHALL CONSTITUTE OWNER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT. OWNER'S RETENTION OF SUCH DEPOSITS AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY UNDER CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO OWNER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. OWNER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTIONS 1680 AND 3389. OWNER AGREES THAT THESE LIQUIDATED DAMAGES SHALL BE IN LIEU OF ANY OTHER MONETARY RELIEF OR OTHER REMEDY, INCLUDING WITHOUT LIMITATION SPECIFIC PERFORMANCE, TO WHICH OWNER OTHERWISE MIGHT BE ENTITLED UNDER THIS AGREEMENT, AT LAW OR IN EQUITY. OPTIONEE AND OWNER SPECIFICALLY ACKNOWLEDGE THEIR AGREEMENT TO THE FOREGOING LIQUIDATED DAMAGES PROVISION BY INITIALING THIS PARAGRAPH IN THE APPROPRIATE SPACES PROVIDED BELOW.

Optionee's Initials PCI Owner's Initials [Signature]

The above Liquidated Damages provisions shall not limit Optionee's liability to the extent set forth in this Agreement for any damage to persons or property to the extent caused by Optionee or any Optionee's Authorized Parties (as defined in **Paragraph 9(a)**), which liability shall be in addition to the liquidated damages referenced above.

7. **Prorations.** If the Closing occurs, all income, if any, and expenses of the Real Property shall be apportioned as of 12:01 a.m., on the day of Closing as if Optionee were vested with title to the Real Property during the entire day upon which Closing occurs. Notwithstanding the generality of the preceding sentence, specific items of income and expense shall be prorated as follows:

(a) **Collected Rent.** All collected rent, collected tenant reimbursements for Operating Expenses (as defined in **Paragraph 7(b)** below), and other collected income for the month of Closing under the Lease shall be prorated as of the Closing Date. Optionee shall be credited with any rent and other income collected by Owner before the Closing Date but applicable to any period of time from and after the Closing Date. Uncollected rent and other income shall not be prorated on the Closing Date. Any rent received by Owner after the Closing Date with respect to time periods from and after the Closing Date shall be delivered to Optionee within five (5) days of Owner's receipt. Optionee shall apply rent and other income that is collected from the Tenant after the Closing Date first to the obligations then owing to Optionee for its period of ownership and to those reasonable attorneys' fees incurred by Optionee in collecting such amount, and shall remit the balance to Owner, to the extent attributable to the period prior to the Closing Date. Within ninety (90) days following the Closing Date, Owner may pursue collection as to any rent owing by the Tenant attributable to the period prior to the Closing, provided that Owner shall have no right to seek to terminate the Lease or Tenant's occupancy under the Lease in connection with its collection efforts.

(b) **Operating Expenses.** Taxes, insurance, utilities (to the extent not paid directly by the Tenant), common area maintenance and other operating costs and expenses in

connection with the ownership, operation, maintenance and management of the Real Property (collectively "**Operating Expenses**") shall be prorated as of the Closing Date as set forth in **Paragraph 7(a)**. Those Operating Expenses being paid directly by the Tenant shall not be prorated. Operating Expenses that are not payable by the Tenant either directly or not reimbursable under the Lease shall be prorated between Owner and Optionee on an accrual basis.

(c) Taxes and Assessments. Owner shall pay any delinquent real property taxes and assessments relating to the Real Property. Non-delinquent real estate taxes and assessments imposed by any governmental authority shall be prorated as of the Closing Date based upon the tax bill(s) received for and applicable to the period(s) in which the Closing Date occurs; or, to the extent such tax bill(s) and applicable amount(s) are not available by the Closing Date, based on the most recent ascertainable assessed values and tax rates. Owner shall receive a credit for any prepaid taxes and assessments paid by Owner attributable to the period prior to the Closing to the end of the applicable taxing period.

(d) Utility Charges. Prepaid water, sewer, and other utility charges shall be credited to Owner, and unpaid water, sewer, and other utility charges accruing prior to the Closing shall be credited to Optionee. However, no such prorations shall be made to the extent any such utilities are contracted for and paid directly by the Tenant. Optionee shall credit to the account of Owner all refundable cash or other deposits posted by Owner with utility companies serving the Real Property or, at Optionee's option, Owner shall be entitled to receive and retain such refundable cash and deposits.

(e) Tenant Deposits. All tenant security deposits made pursuant to the Lease ("**Security Deposits**") actually received by Owner (and interest thereon if required by law or contract to be earned thereon) and not previously applied to Tenant's obligations under the Lease shall be transferred or credited to Optionee at Closing. As of the Closing, Optionee shall assume Owner's obligations related to the Security Deposits.

(f) Contracts. Any amounts owing under the Contracts that are assigned to and assumed by Optionee pursuant to **Paragraph 15(a)** shall be prorated as of the Closing Date.

(g) Additional Deposits. Any Non-Applicable Deposits made by Optionee pursuant to **Paragraph 2(b)** shall not be prorated. By way of example, if pursuant to **Paragraph 2(b)** Optionee makes a Non-Applicable Deposit of Twenty Six Thousand Dollars (\$26,000) on February 1, 2011 (for the Extension Period ending on February 28, 2011), and if the Closing occurs on February 15, 2011, then there shall be no proration of such Non-Applicable Deposit notwithstanding that the Closing occurs prior to the expiration of the applicable Extension Period. The Applicable Deposits (together with the Initial Deposit and the Option Payment) shall be fully credited to the Purchase Price irrespective of when the Closing occurs.

(h) Other Amounts. Any other operating expense or other items pertaining to the Real Property which are customarily prorated between buyers and sellers of real property in the County shall be prorated between Owner and Optionee in accordance with local custom.

(i) Post-Closing Adjustments. Except as otherwise provided in this Agreement, any revenue or expense amount that cannot be ascertained with certainty as of the

Closing Date shall be prorated on the basis of the parties' reasonable estimates of such amount, and shall be the subject of a final proration after the Closing. The parties acknowledge that Operating Expenses payable by the Tenant under the Lease are calculated and payable based upon estimates of Operating Expenses expected to be incurred, and such estimates are reconciled at the end of each year based upon actual expenses incurred for the year. Owner and Optionee agree that, to the extent items are prorated or adjusted at Closing on the basis of estimates, or are not prorated or adjusted at Closing pending actual receipt of funds or compilation of information upon which such prorations or adjustments are to be based, each of them will, upon a proper accounting, pay to the other such amounts as may be necessary such that Owner will receive the benefit of all income and will pay all expenses of the Property prior to the Closing Date and Optionee will receive all income and will pay all expenses of the Property after the Closing Date. Owner and Optionee agree that as soon as reasonably possible, but in no event later than April 15, 2012, the parties shall undertake a final master reconciliation of Operating Expenses, taxes and other pass-throughs and additional rent with respect to the Lease and the Property. Such reconciliation shall be final. Optionee shall prepare the tenant reconciliations for Owner's review. Optionee shall transmit such information to Tenant.

8. Possession. Exclusive possession of the Real Property shall be delivered to Optionee as of the Closing Date, subject only to the possessory rights of the Tenant under the Lease. Until possession is delivered to Optionee, at its sole cost and expense Owner shall maintain and keep the Real Property in not less than the same order and condition as on the Agreement Date. Possession of and legal title to the Real Property shall be delivered to Optionee free and clear of all tenancies and occupancies, other than the possessory rights of the Tenant.

9. Authorization to Enter; Cooperation.

(a) Authorization to Enter. From and after the Execution Date, Optionee and its agents, employees, contractors, consultants, and other designees (collectively, "**Optionee's Authorized Parties**") may, upon three (3) business days' prior written notice, enter upon the Real Property to conduct any activity and perform any investigation, test, study or analysis for the purpose of determining the feasibility of the Real Property for Optionee's planned development of the Real Property, including, but not limited to, soils studies, Phase I and/or Phase II Hazardous Materials (as defined in **Paragraph 12(d)**) studies, engineering and soil studies, tree surveys, archeological studies, biological studies, utilities studies, hydrology studies and any other matters necessary to evaluate the suitability of the Real Property for Optionee's contemplated purposes. Notwithstanding the above (i) no invasive testing shall be done without Owner's written consent which shall not be unreasonably withheld (it being agreed that Owner shall respond to Optionee's written request for consent within three (3) business days after receipt of such request), and (ii) Optionee shall provide Owner with copies of all results and reports received as a result of any investigation, test, study, or analysis regarding the physical condition of the Property done by any third party consultants on behalf of Optionee. Optionee shall pay all costs with respect to such studies and tests. Optionee's Authorized Parties may bring such equipment on the Real Property as is necessary or appropriate to make such studies. Optionee shall maintain, repair and restore the Real Property as necessary to remedy any damage to the Real Property to the extent caused by the feasibility activities of Optionee's Authorized Parties on the Real Property, shall take reasonable precautions to minimize interference with the activities of Owner on the Real Property, and shall indemnify and hold harmless Owner and

Owner's Parties (as hereinafter defined in **Paragraph 13(d)**) from and against all suits, causes of action, claims, liabilities, damages, losses, fees, fines, costs and expenses including attorneys' and experts' fees (collectively, "**Claims**"), for any injury, loss, or damage to persons or property occurring in connection with the inspections and studies conducted by Optionee's Authorized Parties, except that Optionee shall have no liability for and no obligation to remedy any conditions or defects on or under the Real Property (i) not caused by a Optionee Authorized Party including those that are discovered by a Optionee Authorized Party during its investigations and inspections, or (ii) resulting from the acts or omissions of Owner, or any past and/or present occupant of the Real Property or their respective agents, engineers, contractors, consultants and representatives. Optionee's obligations to indemnify and hold Owner and Owner's Parties harmless pursuant to this **Paragraph (9a)** shall survive the termination of this Agreement and the Closing.

(b) **Cooperation.** Owner shall provide Optionee and its consultants with the opportunity to consult with Owner's environmental consultants and to review any work product prepared by or in the possession of such consultants provided Owner is not legally or contractually precluded from doing so. Owner shall cooperate (at no out-of-pocket cost to Owner) in all reasonable respects in connection with Optionee's evaluation of the environmental condition of the Property and any required clean-up or remediation of Hazardous Materials on, at or under the Property, including executing any authorizations or other documents required for Optionee to obtain access to documents or other information relating to the condition of the Property.

10. **Conditions of Optionee's Performance.** Optionee's obligation to close escrow under this Agreement is subject to Optionee's written approval of the following conditions at or before the earlier of the Closing or such earlier time expressly provided below in this **Paragraph 10**, but Optionee shall have the right to waive any such condition in writing within the time period specified in such condition. If any of the following conditions is not satisfied or waived in writing by Optionee, then Optionee shall be entitled to terminate this Agreement, in which event all Deposits shall be returned immediately to Optionee with interest earned thereon, without any further obligation on the part of either Optionee or Owner, subject to any remedies Optionee may have to the extent that a failure of condition also constitutes a default by Owner under this Agreement.

(a) **Feasibility Study.** Optionee may, in Optionee's sole discretion, approve or disapprove the condition of the Real Property and the feasibility of using the Real Property for Optionee's intended purposes (the "**Feasibility Study**") at any time during the period (the "**Feasibility Period**") commencing on the Opening of Escrow and ending at 5:00 p.m. on the date that is ninety (90) days after the Opening of Escrow. During the Feasibility Period, Optionee shall have the right to deliver to Owner written notice (the "**Notice to Proceed**") of Optionee's approval of the Feasibility Study and election to proceed with the purchase of the Property. Optionee shall be deemed to have disapproved the Feasibility Study if Optionee does not deliver the Notice to Proceed to Owner during the Feasibility Period. If Optionee disapproves of or is deemed to have disapproved of the Feasibility Study, then the Deposits previously made by Optionee shall be immediately returned to Optionee.

(b) Documents. To the extent Owner has not previously done so, within three (3) days after the Execution Date, Owner shall provide Optionee with copies of all Contracts, soil and hydrology reports, environmental or toxic material reports, engineering reports, biological studies, archeology reports, improvement plans and specifications, engineering studies, traffic studies, earthquake studies, site history investigation documents, surveys, civil, architectural, landscape and grading plans, working drawings, leases (including all amendments, assignments and other modifications thereof), copies of title insurance policies for the Property, copies of notices of default and/or correspondence with the Tenant relating to actual or alleged defaults by Owner or the Tenant or disputes between Owner and the Tenant, a copy of all income and expense statements (including annual Operating Expense reconciliation statements and correspondence between Owner and the Tenant concerning any disputes or calculations regarding Operating Expenses) for the Property for the prior three (3) years, a list of the Personal Property, copies of all warranties and guaranties pertaining to the Property, unrecorded subordination agreements, unrecorded non-disturbance agreements, subleases, estoppel certificates, licenses, agreements affecting the Real Property, and other information relating to the Real Property, whether in final form or in process, to the extent such documents are in Owner's possession (collectively, the "**Property Documents**"). Notwithstanding the above, Property Documents shall not include any internal reports or documentation generated for the sole use of the members, shareholders, partners, trustees and other constituents of Owner (other than income and expense reports), letters of interest, purchase agreements, expired leases, appraisals, or entity governing documents. Following the delivery of all Property Documents to Optionee, Owner shall provide Optionee with written notification that all Property Documents have been delivered by Owner. Optionee shall have the opportunity to review and approve all Property Documents during the Feasibility Period. If any new Property Documents are first obtained by Owner after the Execution Date, Owner immediately shall deliver such new Property Documents to Optionee. Optionee shall have the right to use all Property Documents, and the Purchase Price includes payment for all Property Documents. Optionee shall not disclose any information contained in the Property Documents, provided that Optionee shall have the right to disclose such information to the following parties and in the following circumstances: (i) Optionee is required to disclose information in the Property Documents in response to a subpoena or other regulatory, administrative or court order, (ii) independent legal counsel to Optionee delivers a written opinion to Owner that Optionee is required to disclose such information, (iii) to actual or potential assignees of this Agreement, (iv) in response to a request for discovery in any legal or administrative proceeding; (v) in connection with any litigation or other dispute by or among the parties to this Agreement; (vi) to the extent any information contained in the Property Documents is or becomes part of the public domain through no fault of Optionee; (vii) in connection with obtaining, administering, and enforcing rights with respect to insurance (including without limitation underwriting insurance, adjusting claims or otherwise procuring, adjusting, challenging, administering, disputing or litigating any issues concerning insurance); (viii) to Optionee's attorneys, accountants, and consultants, and contractors who are involved in due diligence activities or the consummation of the transactions contemplated by this Agreement; or (ix) to the extent required by applicable law. If Optionee fails to exercise the Option as and when required, or if Optionee exercises the Option but fails to close escrow as and when required by this Agreement, at Owner's written request Optionee shall immediately return all Property Documents and copies thereof to Owner.

(c) Owner's Representations and Warranties. Owner's representations and warranties as set forth in **Paragraph 12** below shall be true and correct as of, and shall be deemed remade by Owner, as of the Agreement Date, as of the expiration of the Feasibility Period, and as the Closing Date.

(d) Owner's Performance. Owner shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Owner's part at or prior to the Closing.

(e) Title Policy. Escrow Holder shall be ready willing and able to issue to Optionee the Title Policy at the Closing.

(f) Owner's Deliveries. Owner shall deliver into the Escrow the following documents (collectively, the "**Closing Documents**"): (i) the Grant Deed (in the Escrow Holder's standard form) for recordation and delivery to Optionee at the Closing, (ii) an affidavit as required by the Foreign Investment in Real Property Tax Act (in the Escrow Holder's standard form) and a form 593-C as required by California law, (iii) escrow instructions in form and substance consistent with the requirements herein, (iv) an Assignment and Bill of Sale in the form of **Exhibit C** attached hereto (the "**Assignment**"), duly executed by Owner, (v) an Assignment and Assumption of Lease in the form attached hereto as **Exhibit D** (the "**Assignment of Lease**"), (vi) a notice letter to the Tenant advising the Tenant of the sale of the Property to Optionee and directing Tenant to pay to Optionee all rent and other sums accruing under the Lease for the period after the Closing executed by Owner, (vii) such duly executed owner's affidavits as may be required by the Escrow Holder to issue the Title Policy at Closing, (viii) all prorations, fees and other amounts to be paid by Owner at Closing, provided that in lieu of depositing such amounts in Escrow, such amounts shall be withheld from the Closing Payment delivered to Owner in accordance with Owner's approved closing statement; (ix) such evidence as the Escrow Holder may reasonably require as to the authority of the person or persons executing documents on behalf of Owner; and (x) such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

(g) Estoppel Certificate. On or before November 15, 2010, Owner shall have obtained and delivered to Optionee an estoppel certificate in the form required by the Lease or, if the form is not specified in the Existing Lease, in substantially the form attached to this Agreement as **Exhibit F**, but not including any information or statements not required by the Lease, duly executed by the Tenant (the "**Estoppel Certificate**"). Prior to delivering the Estoppel Certificate to Tenant for review and execution, Owner shall deliver a draft of the Estoppel Certificate to Optionee for review and approval, and Optionee will have five (5) business days after receipt to review the draft Estoppel Certificate and to notify Owner of any requested corrections or additions thereto, provided Optionee shall not have the right to require any additions or changes that are not required by the Lease. The Estoppel Certificate shall be considered satisfactory only if it is executed by the Tenant, is dated no earlier than November 30, 2010, and, in the reasonable opinion of Optionee, does not list any material events of default, describe any material differences in lease information from what is provided by Owner pursuant to this Agreement, or set forth any material adverse matter. Following delivery to Optionee of the executed Estoppel Certificate, if requested by Optionee Owner shall use commercially

reasonable efforts to obtain and deliver to Optionee one or more updates to the Estoppel Certificate as Optionee may request, duly executed by Tenant.

(h) Legal Parcel. The Land shall consist of one or more legal parcels as of the Closing. Notwithstanding anything in this Agreement to the contrary, the condition precedent set forth in this subparagraph may not be waived.

(i) Environmental Condition. There shall exist no environmental matter having a material adverse impact on the Property that was known to Owner on the Agreement Date and was not disclosed in writing to Optionee within three (3) days after the Execution Date as provided in **Paragraph 10(b)** and **Schedule 12(d)** of this Agreement.

(j) Leases. Other than the Lease, there shall exist no other leases, tenancies, or occupancy agreements affecting the Real Property or any part of the Real Property.

(k) Material Conditions. Each of the above conditions is for the sole benefit of Optionee and each of such conditions is deemed to be material to and of the essence of this Agreement.

11. Conditions of Owner's Performance. All of Owner's obligations hereunder are expressly conditioned on the satisfaction at or before the Closing, or at or before such earlier time as may be expressly stated below, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Owner, at Owner's option):

(a) Optionee's Representations and Warranties. Optionee's representations and warranties as set forth in **Paragraph 13** below shall have been true and correct as of the Execution Date and the Closing Date.

(b) Optionee's Performance. Optionee shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Optionee's part at or prior to the Closing.

(c) Optionee's Deliveries. Optionee shall have delivered to Escrow Holder all instruments and documents required on Optionee's part to effectuate this Agreement and the transactions contemplated hereby, including without limitation, escrow instructions in form and substance consistent with the requirements herein, a closing statement consistent with the terms of this Agreement, and a certificate of acceptance of the Grant Deed as required by Section 27281 of the California Government Code, and Optionee shall have timely deposited all funds to be deposited into the Escrow pursuant hereto, including without limitation the Closing Payment.

12. Owner's Representations, Warranties and Covenants. Owner hereby represents, warrants and covenants to Optionee and its assigns, and makes the representations, warranties and covenants set forth in this **Paragraph 12** for the benefit of Optionee and its successors and assigns. Owner shall notify Optionee in writing immediately if Owner becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Owner after the Agreement Date. Owner shall indemnify, protect, defend and hold harmless Optionee from and against all Claims arising from or relating to any misrepresentation made by

Owner in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Owner is the sole owner of fee title to the Real Property and has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement by Owner shall have been duly authorized. No approvals, authorizations or consents of any public body or of any person other than Owner's shareholders, partners or members, as applicable, are necessary in connection herewith. This Agreement and all other agreements, documents and instruments to be executed in connection herewith have been effectively authorized by all necessary action, corporate, partnership or otherwise, including, without limitation, authorizations of Owner's Board of Directors, shareholders or members, as applicable, which authorizations remain in full force and effect, have been duly executed and delivered by Owner, and no other corporate, partnership or other proceedings on the part of Owner are required to authorize this Agreement and the transactions contemplated hereby.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Owner do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon the Property or any other assets of Owner by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Owner is a party or which is or purports to be binding upon Owner or the Property or which otherwise affects Owner or the Property, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Owner in accordance with its terms.

(c) Documents. Owner has provided or will provide Optionee pursuant to **Paragraph 10(b)** with copies of all Property Documents in Owner's possession. All Property Documents delivered or to be delivered to Optionee by Owner and its agents are complete originals or true and correct copies thereof. If Optionee elects not to purchase the Property, Optionee will return to Owner all Property Documents previously delivered to Optionee by Owner. Owner shall deliver as and when required all notices relating to the Property to the extent required by applicable laws or any covenants, conditions or restrictions affecting the Property.

(d) Hazardous Materials. Owner and the Owner Related Parties have not spilled, discharged or released any Hazardous Materials onto, under or about the Property. To Owner's knowledge without inquiry, there are no above ground or underground storage tanks, barrels, drums, pits, wells, lagoons or other containers (collectively, "**Tanks**"), other than those owned or used by the Tenant under the Lease, or any Hazardous Materials, other than as used by the Tenant under the Lease, on, in, about or under or within 2,000 feet of the Real Property, including any ground water beneath and surface water thereon (whether by virtue of any storage, release or disposal on, in or under the Real Property or migration to the Real Property), except for the specific Tanks and/or Hazardous Materials and quantities thereof as are disclosed by

Owner on Schedule 12(d) attached hereto and incorporated herein (the “**Disclosed Hazardous Materials**”). As used herein, the term “**Hazardous Materials**” shall mean any substance, material, waste, chemical, mixture or compound which: (i) is flammable, ignitable, radioactive, hazardous, toxic, corrosive or reactive, and which is regulated under law or by a public entity, (ii) is a “Hazardous Substance” as defined or listed under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, or any regulations promulgated thereunder, (iii) is crude oil, petroleum, natural gas, or distillates or fractions thereof, and/or (iv) damages or threatens to damage health, safety, or the environment, or is required by any law or public entity to be remediated, including remediation which such law or public entity requires in order for property to be put to any lawful purpose. The provisions of this Paragraph 12(d) shall survive the Closing.

(e) Compliance. Except as specifically set forth in Schedule 12(d) of this Agreement, to the best of Owner’s knowledge without inquiry the Real Property is not in violation of any federal, state or local law, statute, regulation or ordinance, and there are no special assessments, condemnation actions or other legal actions or proceedings pending or threatened against the Real Property or any part thereof.

(f) Bankruptcy. Owner is not the subject of a voluntary or involuntary bankruptcy, reorganization, or insolvency petition.

(g) Work Contracts. At the Closing, there will be no outstanding amounts owing by Owner under any Contracts for any improvements to the Real Property. Owner shall cause to be discharged all mechanics’ and materialmen’s liens arising from any labor and materials furnished prior to the Closing, and shall have eliminated from title all exceptions, claims, and defects other than the Permitted Exceptions. No person or entity holds any rights to purchase or otherwise acquire all or any portion of the Property (or interest therein), including pursuant to any Option Agreement, option, right of first offer, right of first refusal, gift or other agreement.

(h) Other Contracts. Exhibit E to this Agreement sets forth a complete and accurate list of Contracts (other than insurance policies and the Lease) affecting the Property, and neither Owner nor any provider under any of the Contracts has asserted any breach or default thereunder. Owner has not received any written notice of a Owner default and Owner has no knowledge of any existing Owner defaults under the Contracts. Owner has not received any written notice of a default by another party, and Owner has no knowledge of any existing other party default under the Contracts. Prior to Closing, Owner shall not amend any existing Contract or enter into any new Contract affecting the Property that will survive the Closing, or that would otherwise affect the use, operation or enjoyment of the Property after Closing, without Optionee’s prior written approval.

(i) No Commitments. Owner has not made any commitments to any governmental authority, to any adjoining property owner, or to any other organization, group, individual or entity relating to the Real Property which would impose any obligations upon Optionee to make any contributions of money or land or to install or maintain any improvements.

(j) Leases. Other than the Lease, Owner has not executed and is not aware of any other leases, tenancies, subleases, or occupancy agreements affecting the Real Property or any part of the Real Property. Owner is the current landlord under the Lease. Owner is not in default under the Lease and to Owner's knowledge no default on the part of Tenant exists (and no event has occurred that with the passage of time or the giving of notice, or both, would be a default) under the Lease. Owner has not assigned or otherwise transferred any interest in the Lease to any other party and Owner has not consented to any sublease or assignment of the Lease by the Tenant. As of the Agreement Date and as of the Closing, there shall be no outstanding leasing costs, including without limitation commissions, free rent, tenant improvement costs or allowances, or other tenant inducements or concessions owing by the landlord under the Lease.

(k) Rights of Third Parties. Owner has not alienated, encumbered, transferred, leased, assigned or otherwise conveyed its interest in the Property or any portion thereof except as set forth in the Title Report, and shall not enter into any such agreement that will not be removed prior to the Closing. There are no claims pending or threatened by any third party against Owner or any Owner Party relating to the Property.

(l) Binding Agreement. This Agreement constitutes the legal, valid and binding obligation of Owner and is enforceable in accordance with its terms against Owner subject only to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

(m) Support of Project. As a material inducement to Optionee's execution of and performance under this Agreement, for so long as this Agreement remains in effect and is not terminated prior to the Closing, Owner shall not challenge, oppose or impede, either directly or indirectly, the Project, and shall use commercially reasonable efforts to cause the Owner's Parties not to challenge, oppose or impede the Project.

(n) Other. Neither this Agreement, nor any of the exhibits or schedules hereto, nor any document, certificate or statement referred to herein or furnished to Optionee in connection with the transaction contemplated herein (whether delivered prior to, simultaneously with, or subsequent to the execution of this Agreement) contains any untrue statement of material fact or, omits to state a material fact in any way concerning the Property or otherwise affecting or concerning the transaction contemplated hereby.

13. Optionee's Representations and Warranties. Optionee hereby makes the representations and warranties set forth in this **Paragraph 13** for the benefit of Owner and its successors and assigns. Optionee shall notify Owner in writing immediately if Optionee becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Optionee after the Agreement Date. Optionee shall indemnify, protect, defend and hold harmless Owner from and against all Claims arising from or relating to any misrepresentation made by Optionee in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Optionee has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement by Optionee has been duly authorized.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Optionee do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the property or assets of Optionee by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Optionee is a party or which is or purports to be binding upon Optionee or which otherwise affects Optionee, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Optionee in accordance with its terms.

(c) Litigation. There are no claims, actions, suits or proceedings continuing, pending or threatened, which would materially adversely affect Optionee or this transaction.

(d) As-Is Purchase; Release of Certain Claims. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, OPTIONEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT OWNER IS SELLING AND OPTIONEE IS PURCHASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS, NO PATENT OR LATENT DEFECTS ON THE PROPERTY WHETHER KNOWN NOW OR DISCOVERED LATER SHALL AFFECT THIS AGREEMENT, AND THAT OPTIONEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM OWNER, ITS AGENTS, OR ANY BROKERS AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, utility systems, facilities and appliances, the square footage within the improvements on the Property and within each tenant space therein, (ii) the quality, nature, adequacy, and physical condition of soils, geology, drainage, and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other land use status of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring properties, (viii) the quality of any labor and materials used in any improvements on the Property, or (ix) the economics of the operation of the Property.

Without limiting the above, but subject to the provisions below relating to Reserved Claims, effective on the Closing Optionee hereby waives its right to recover from, and forever releases and discharges, Owner and Owner's members, shareholders, partners, beneficiaries, successors

and assigns, and their respective heirs and personal representatives (collectively, the “**Owner Related Parties**”), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys’ fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the physical condition of the Property including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and Hazardous Materials on, under or about the Property or on, under or about nearby properties, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater of the Property and nearby properties, (iii) claims of any occupants of the Property against Owner or any Owner Related Party, (iv) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (v) the development potential of the Property, and the Property’s use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (vi) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vii) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (viii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring property, (ix) the quality of any labor and materials used in any improvements on the Property, (x) the condition of title to the Property, (xi) economics of the operation of the Property and (xii) any law or regulation applicable to the use or operation of the Property, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.) and any other federal, state or local law.

In connection with the matters referred to above in this **Paragraph 13(d)**, Optionee on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California (“**Section 1542**”), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a “**Similar Provision**”). Thus, Optionee, its agents, successors and assigns, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters referred to above. Section 1542 provides as follows: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

The preceding provisions of this **Paragraph 13(d)** shall not constitute a waiver of any conditions precedent to Optionee's obligations under this Agreement. In addition, notwithstanding anything in this **Paragraph 13(d)** or any other provision herein to the contrary, Optionee reserves all rights and claims that it may have under this Agreement or applicable law with respect to the following (collectively, "**Reserved Claims**"): (a) fraud, willful misconduct, or the criminal acts of Owner and its members, employees, agents, consultants and contractors (collectively, "**Owner's Parties**"); (b) claims based upon acts or omissions of Owner which occur after the Closing; (c) any claims relating to dealings between Optionee and any Owner Party on transactions or matters relating to other properties; (d) any claims for breach of the representations, warranties, covenants and other obligations expressly set forth in this Agreement; or (e) claims for breach of the representations, warranties, covenants and other obligations set forth in the Closing Documents.

14. Brokers. Owner shall pay a brokerage commission to Cassidy Turley/BT Commercial (the "**Broker**") pursuant to a separate agreement between Owner and the Broker. Except for the Broker referred to in this **Paragraph 14**, each party represents to the other that it has not dealt with any other broker, agent, or finder for which a commission or fee is payable in connection with the transaction contemplated by this Agreement. Each party shall indemnify, defend, protect and hold harmless the other from any Claims arising from such party's breach of its representation contained in this paragraph.

15. Owner's Operating Covenants.

(a) Contracts. Prior to the Closing, Owner shall terminate all Contracts, except for the Contracts that Owner agrees to assign to Optionee and that Optionee agrees to assume. Optionee shall notify Owner of those Contracts, if any, that Optionee wishes to assume within thirty (30) days after receipt of such Contracts. If Optionee fails to notify Owner of its election to assume any of the Contracts within such thirty (30) day period, Optionee shall be deemed to have elected not to assume any of the Contracts. Those Contracts that Optionee expressly elects to assume, if any, shall be identified in an exhibit to the Assignment and assigned to and assumed by Optionee pursuant to the Assignment.

(b) Leases. From and after the Agreement Date, Owner shall not execute any new leases or modify or amend the Lease except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion. Owner shall not grant any concession, rebate, allowance or free rent with respect to the Lease, or consent to any sublease, termination, or lease surrender proposed by Tenant, except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion.

(c) Other Operating Covenants. From and after the Agreement Date, Owner shall not encumber the Property with any liens, encumbrances or other instruments creating a cloud on title or securing a monetary obligation that will survive the Closing. Owner shall maintain the Real Property in substantially the same condition as it exists as of the Agreement Date. Owner shall timely discharge, prior to the Closing, any and all obligations relating to work performed on or conducted at or materials delivered to the Real Property from time to time by Owner, or at Owner's direction or on its behalf, in order to prevent the filing of any claim or mechanic's lien with respect to such work or materials, and shall indemnify and hold Optionee

harmless from any Claims or liens filed or otherwise claimed, in connection with any work, labor and/or materials performed on or furnished by, through or under Owner prior to the Closing. Until the Closing, Owner shall keep in full force and effect all existing insurance policies affecting the Real Property.

16. Assignment. Optionee may assign this Agreement and its rights and obligations hereunder by delivery to Owner of written notice of such assignment, provided that such assignee expressly assumes all of the obligations and liabilities of Optionee under this Agreement arising or accruing after the date of such assignment. If Optionee assigns this Agreement, then the closing documents to be delivered by Optionee and Owner shall be modified so that the assignee's name is substituted in lieu of the name of Optionee. Subject to the preceding provisions of this **Paragraph 16**, this Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties to this Agreement.

17. Memorandum of Agreement. At Optionee's request Owner shall execute and acknowledge a Memorandum of this Agreement substantially in the form attached hereto as **Exhibit B** (the "**Memorandum**"), and Optionee shall be entitled to record same in the official land records of the County. If Optionee fails to exercise the Option within the Option Term, or if this Agreement otherwise terminates for reasons other than Owner's default, Optionee shall execute a quitclaim deed sufficient to release the Memorandum from the Property.

18. Entire Agreement; Amendments. This Agreement and the exhibits hereto set forth all of the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an agreement in writing, duly executed by or on behalf of the party or parties against whom enforcement of any waiver, change, modification, consent or discharge is sought.

19. Attorneys' Fees. If a legal action, suit, or proceeding is brought by Optionee or Owner to enforce or interpret any of the provisions of this Agreement, or otherwise with regard to the Escrow or the Property, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection therewith. "**Prevailing party**" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other party is in breach or default, if such action is dismissed upon the other party's payment of the sums allegedly due or performance of the covenant allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action whether or not such action proceeds to a final judgment or determination.

20. Optionee's Remedies. Notwithstanding anything to the contrary contained in this Agreement, if the Closing does not occur as the result of the Owner's default of its obligation to deliver title to the Property to Optionee in the manner required hereby or Owner otherwise breaches its obligations to consummate the Closing in accordance with this Agreement, Optionee shall be entitled to pursue all available legal and equitable remedies, including without limitation (a) recovery of all Deposits made by Optionee plus claims for additional damages attributable to such breach or default by Owner (but only to the extent such claims for additional damages do not exceed One Hundred Thousand Dollars (\$100,000)) and (b) specific performance of this

Agreement. The foregoing limitations on damages shall not apply to any claims arising from fraud, willful misconduct, or criminal conduct of Owner and shall not limit Optionee's recovery of attorneys' fees or other amounts pursuant to **Paragraph 19**.

21. **Cure Period**. Notwithstanding the provisions of **Paragraph 20** or any other provision of this Agreement, no default by either party hereto shall result in a termination or limitation of any rights of such party hereunder unless and until the other party shall have notified the defaulting party in writing of such default, and the defaulting party shall have failed to cure such default within ten (10) days after the receipt of such written notice; provided that, where a non-monetary default cannot reasonably be cured within such ten (10) day period, the defaulting party shall not be in default if defaulting party commences such cure within the ten (10) day period and thereafter diligently prosecutes such cure to completion. In addition, if Optionee fails to either exercise the Option pursuant to **Paragraph 2(c)** or to extend the Option Term by exercising an Extension Option pursuant to **Paragraph 2(b)**, then notwithstanding any provision of this Agreement to the contrary, the Option shall not be deemed to have lapsed or terminated unless Optionee fails to either (a) exercise the Option pursuant to **Paragraph 2(c)** or (b) to exercise an Extension Option and to deposit the applicable Additional Deposit required by **Paragraph 2(b)** within ten (10) days after Optionee receives written notice from Owner of either such failure. Notwithstanding the above, the failure by Optionee to consummate the Closing (for reasons other than Owner's default or the failure of a condition to closing specified in **Paragraph 10**) on or before the Closing Date shall result in immediate termination and no such notice shall be required or cure period provided.

22. **Entire Agreement**. This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and no representation, inducement, promise, or agreement, oral or written, between the parties not embodied in this Agreement, will be of any effect. This Agreement supersedes and cancels any and all prior or contemporaneous negotiations, arrangements, representations and understanding, oral or written, if any, between the parties, relating to the subject matter of this Agreement.

23. **Risk of Loss**. Until the Closing, Owner shall assume all risk of loss with respect to the Real Property. If after the Agreement Date and prior to the Closing all or any part of the Real Property is destroyed by fire, earthquake or other casualty, Optionee shall within ten (10) business days after receipt of written notice from Owner of such casualty (but in all events at least one (1) day before the Closing Date) irrevocably elect either (a) to terminate this Agreement or (b) to keep this Agreement in effect, in which event if the Closing occurs Owner shall pay or assign to Optionee all insurance proceeds paid or payable to Owner (to the extent not previously expended in an effort to restore the Real Property) as a consequence of such casualty, and the Purchase Price shall be reduced by the amount of any deductible or other uninsured loss. If Optionee fails to timely elect either the option in clause (a) or in clause (b) above, then Optionee shall be deemed to have irrevocably elected the option in clause (b) above. If this Agreement is terminated pursuant to this paragraph, then (i) if the termination relates to a casualty occurring during the Initial Option Term, all the Deposits and interest earned thereon while in Escrow shall be returned to Optionee, (ii) if the termination relates to a casualty occurring after the expiration of the Initial Option Term, all the Deposits previously released to Owner shall be retained by Owner, and (iii) neither party shall have any further rights, duties, obligations or liabilities, at law or in equity, arising out of or relating to this Agreement except for those that specifically survive

termination of this Agreement pursuant to other paragraphs hereof. Notwithstanding the above, if the damage to the Real Property does not exceed Two Hundred Thousand Dollars (\$200,000), then Optionee shall not have the right to terminate this Agreement pursuant to clause (a) above and shall be deemed to have irrevocably elected to keep this Agreement in effect pursuant to clause (b) above.

24. Miscellaneous.

(a) Time of the Essence. Time is of the essence of this Agreement.

(b) Dates. Any time period to be computed pursuant to this Agreement shall be computed by excluding the first day and including the last day. If the last day falls on a Saturday, Sunday or holiday, the last day shall be extended until the next business day that the Escrow Holder is open for business. As used herein, the term “**days**” means calendar days and the term “**business days**” means all calendar days other than Saturdays, Sundays, or holidays observed by Escrow Holder.

(c) Governing Law. This Agreement shall be governed by the law of the State of California. Owner and Optionee agree that all suits or actions of any kind brought to interpret or enforce the terms of, or otherwise arising out of or relating to this Agreement shall be filed and litigated solely in the state court in the county in which the Real Property is located or if such suit or action cannot be filed and or litigated in state court, then in the federal court located closest to the Real Property. Each party hereby consents to the personal and subject matter jurisdiction of said courts. Owner and Optionee agree that San Mateo County shall for all purposes be considered the place in which this Agreement was entered into, notwithstanding the order in which, or the location or locations at which, it may have been executed or delivered.

(d) Notices. All notices or demands which either party is required or desires to give to the other shall be given in writing by certified mail, return receipt requested with the appropriate postage paid, by personal delivery, by facsimile (provided receipt of a facsimile transmission is confirmed telephonically or otherwise) or by private overnight courier service to the address or facsimile number set forth below for the respective party, or such other address or facsimile number as either party may designate by written notice to the other. All such notices or demands shall be effective as of actual receipt or refusal of delivery. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day. Notwithstanding the foregoing, if Optionee elects to exercise an Extension Option pursuant to **Paragraph 2(b)**, Optionee may elect to give notice of such election to Escrow Holder and Owner by email so long as Optionee makes the required Additional Deposit as and when required by **Paragraph 2(b)**.

To Owner: Las Cruces Holdings, LLC
1350 Bayshore Highway, Suite 900
Burlingame, California 94101
Fax: (650) 347-4307
Attn: Marshall Hydorn

With copies to: Kenneth Horowitz, Esq.
951 Mariner's Island Drive, Suite 240
San Mateo, California 94404
Fax: (650) 378-7681

To Optionee: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
City Manager Attn:

With copies to: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
Attn: City Attorney

And to: Heffernan Seubert & French LLP
1075 Curtis Street
Menlo Park CA 94025
Fax: (650) 322-2976
Attn: Daniel K. Seubert

(e) Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

(f) No Third-Party Beneficiaries. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Owner and Optionee only and are not for the benefit of any third party; and, accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

(g) No Fiduciary Relationships. Owner is not the agent or representative of Optionee and Optionee is not the agent or representative of Owner, and nothing in this Agreement will be construed to make Optionee liable to anyone for goods delivered or services performed at the Real Property or for debts or claims accruing against Owner. Nothing in this Agreement will be construed to create any privity of contract or other relationship between Optionee and anyone supplying labor or materials to the Real Property. Nothing in this Agreement, nor the acts of the parties, will be construed to create a partnership or joint venture between Owner and Optionee.

(h) Further Assurances. Each party shall execute, acknowledge, and deliver, after the Agreement Date, including at or after the Closing, such further assurances, instruments

and documents as the other may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

(i) Counterparts. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) Survival. Unless otherwise expressly stated in this Agreement, the warranties, representations and covenants of Owner and Optionee shall survive the Closing and delivery of the Grant Deed.

(k) Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

(l) Construction. The paragraph and section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The paragraph headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Agreement. The singular form will include plural, and vice versa. Each term, condition or provision hereof has been freely negotiated and shall be equally binding upon Owner and Optionee and no such term, condition or provision shall be construed against either party hereto solely because such term, condition or provision was initially drafted or prepared by such party. Unless otherwise indicated, all references to paragraphs or sections are to this Agreement. All exhibits, schedules, addenda and attachments referred to in this Agreement are attached to it and incorporated in it by this reference. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates.

(m) Amendments. No amendment to this Agreement will be binding on any of the parties to this Agreement unless the amendment is in writing and executed by all parties. No acts or omissions of any employee or agent of the parties or any broker, if any, shall alter, change or modify any of the provisions of this Agreement.

(n) Non-Liability of Officials. No officer, official, member, employee, agent, or representatives of Optionee shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such official, member, employee, agent, or representative.

(o) Owner's Tax Deferred Exchange. Owner may desire to effect a tax-deferred exchange with respect to its disposition of the Property ("**Owner's Exchange**") pursuant to Section 1031 of the Internal Revenue Code. Owner's Exchange will be structured by Owner at its sole cost and expense and Optionee will have no obligation to acquire or enter into

the chain of title to any property other than the Property. Optionee's sole obligation in connection with Owner's Exchange shall be to review and execute such documentation as is reasonably necessary in order to effectuate Owner's Exchange in accordance with the foregoing and the applicable rules governing such exchanges. Optionee's cooperation with Owner's Exchange shall not affect or diminish Optionee's rights under this Agreement, delay the Closing or be construed as Optionee's warranty that Owner's Exchange in fact complies with Section 1031 of the Internal Revenue Code. Optionee shall have the right to review and reasonably approve any documents to be executed by Optionee in connection with Owner's Exchange. Acceptance of title to the Property from Owner's designated intermediary shall not modify Owner's representations, warranties and covenants to Optionee under this Agreement or the survival thereof pursuant to this Agreement. The Grant Deed and all closing documents shall run directly between Owner and Optionee. Owner is relying solely upon the advice and counsel of professionals of Owner's choice in structuring, executing and consummating Owner's Exchange.

(p) Advice of Advisors. Each party to this Agreement acknowledges and agrees that it has obtained and relied upon its own legal counsel and other advisors to evaluate the tax, accounting and legal consequences of entering into this Agreement and consummating the transactions contemplated hereby, and, except as set forth in this Agreement, neither party is relying on any representations or warranties of the other party to this Agreement.

(q) Disclosure. Ben Paul, Marshall Hydorn, Scott Mason and Mark Melbye are licensed real estate brokers and are members of Owner.

25. Owner's Waivers.

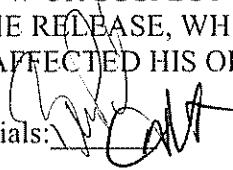
(a) Waiver of Relocation Assistance. Optionee's payment to Owner of the Purchase Price and its payment to Lender of the Prepayment Fee (to the extent required by this Agreement) shall constitute full and complete satisfaction of any obligation Optionee may have for providing relocation assistance to Owner and paying its relocation costs, if any, required to comply with all applicable federal, state and local laws, rules and regulations arising out of, based upon, or relating to, relocation assistance or benefits owing under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq. or under any other federal, state or local relocation statutes, regulations or guidelines, including but not limited to, any such regulations or guidelines of the City of Redwood City or the County of San Mateo (collectively, "**Relocation Benefits**"). Accordingly, Owner, for itself and for its agents, successors, assigns, fully releases, acquits and discharges Optionee and its officers, officials, members, directors, council members, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (collectively, the "**Released Parties**"), from all Claims that Owner, or any of them, has or may have against the Released Parties for all Relocation Benefits arising out of or related to Optionee's acquisition of the Property or the displacement of Owner from the Property.

(b) Waiver of Property Rights and Interests. Upon receipt by Owner of the Purchase Price and Optionee's payment to Lender of the Prepayment Fee (to the extent required

by this Agreement), Owner for itself and for its agents, successors and assigns fully releases, acquits and discharges Optionee and the Released Parties from all Claims that Owner, its agents, successors and assigns has or may have against the Released Parties arising out of or related to Optionee's acquisition of the Property or the displacement of Owner from the Property including, without limitation, all of Owner's property rights and interests in the Property, including but not limited to (i) all leasehold interests and rights of tenancy or occupancy, (ii) all improvements, including improvements pertaining to the realty, furniture, fixture, and equipment, (iii) business goodwill and lost income (past or future) relating to the Property, (iv) Owner's failure to locate a suitable replacement location, (v) lost rental income or sublease or license income, (vi) severance damages and pre-condemnation damages, if any, (vii) economic or consequential damages, (viii) professional consultant fees, attorney's fees and costs, expert witness fees and costs, interest, and (ix) all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Owner, its agents, successors and assigns by reason of Optionee's acquisition of the Property or Owner's displacement from the Property. Notwithstanding the above, Optionee and the Released Parties shall not be released from any obligations to indemnify or hold harmless Owner or Owner's Parties to the extent otherwise provided in this Agreement.

(c) Waiver of Civil Code Section 1542. Owner, on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Owner and its agents, successors and assigns, and any business, enterprise, or venture in which they are involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters Released in Paragraph 25(a) or Paragraph 25(b) above. Section 1542 provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Owner's Initials: 

(d) Indemnification. Owner acknowledges that Optionee is relying on Owner's representation and warranty that other than the Lease, Owner has not executed and is unaware of any other leases, tenancies, subleases, or occupancy agreements affecting the Property ("**Owner's Occupancy Representation**"). In the event that Owner's Occupancy Representation is untrue, then without limiting Optionee's recourse for Owner's breach of Owner's Occupancy Representation, if such other tenants or occupants shall be entitled to Relocation Benefits, Owner shall have the sole and exclusive responsibility for providing all such Relocation Benefits and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations and satisfying all Claims of such parties. Owner hereby agrees to indemnify, defend, protect and hold the Released Parties harmless from and against any Claims asserted against or sustained by the Released Parties arising from its breach of the

Owner's Occupancy Representation, including without limitation claims for Relocation Benefits and inverse condemnation.

(c) Tenant Relocation Assistance. Notwithstanding the preceding provisions of this **Paragraph 25** to the contrary, provided the Closing occurs, Optionee shall assume the obligations to provide Relocation Benefits to the Tenant. Nothing in this **Paragraph 25(e)** or elsewhere in the Agreement shall preclude Optionee from entering into agreements or other arrangements, but only after the Closing, with the Tenant to provide alternative compensation or benefits to the Tenant in lieu of providing such Relocation Benefits to the extent permitted by applicable law.

26. Offer and Acceptance. Owner has executed and delivered this Agreement as of the Agreement Date. Owner's execution and delivery of this Agreement to Optionee constitutes an offer to Optionee on the terms and conditions set forth in this Agreement (the "**Offer**"). The Offer may be accepted only (a) following approval of the transactions contemplated by this Agreement by the City Council of The City of Redwood City and (b) by Optionee's execution of this Agreement in the signature block set forth below and the delivery of this Agreement to Owner. If Optionee does not accept the Offer by executing this Agreement and delivering it to Owner on or before October 20, 2010, Owner shall have the right to revoke the Offer by written notice to Optionee.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the dates set forth below.

"OWNER"

LAS CRUCES HOLDINGS, LLC,
a California limited liability company

By: _____

Its: _____

By: _____

Its: _____

Dated: 10-6-'10

"OPTIONEE"

CITY OF REDWOOD CITY,
a charter city and municipal corporation of the State of California

By: _____

Name: _____

Its: _____

Dated: October 12, 2010

ATTEST:


Silvia Vonderhinden, City Clerk

ACCEPTANCE BY ESCROW HOLDER

First American Title Insurance Company hereby acknowledges that it has received a fully executed counterpart of the foregoing Real Estate Option Agreement ("**Contract**") and agrees to act as Escrow Holder or agent under the Contract and to be bound by and perform the terms thereof as such terms apply to Escrow Holder.

Dated: 10-13-2010

First American Title Insurance Company

By: 

Name: KAREN MATSUNAGA

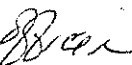
Its: SENIORE COMMERCIAL DEPARTMENT 

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

PARCEL I:

PARCEL "A" AS SHOWN UPON PARCEL MAP NO. 2008-02 FILED FOR RECORD OCTOBER 22, 2008 IN VOLUME 78 OF PARCEL MAPS, AT PAGE 76-78 SAN MATEO COUNTY RECORDS.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK IN, OVER AND UPON A STRIP OF LAND TWENTY (20) FEET WIDE, LYING EQUALLY ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE ABOVE MENTIONED MAP, DISTANT THEREON NORTH 55° 13' 12" WEST 3.55 FEET FROM THE MOST EASTERLY CORNER OF LOT 2 AND RUNNING THENCE FROM SAID POINT OF BEGINNING, SOUTHWESTERLY, ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 383.06 FEET AND A CENTRAL ANGLE OF 10° 21' 09" AND BEING TANGENT TO A LINE BEARING SOUTH 31° 02' 54" WEST, FOR AN ARC DISTANCE OF 69.21 FEET; THENCE SOUTH 20° 41' 45" WEST 190 FEET, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF SAID LOT 2.

PARCEL III:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL I ABOVE, FOR THE CONSTRUCTION, MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK IN, OVER AND UPON A STRIP OF LAND 20 FEET WIDE, THE CENTERLINE OF WHICH STRIP IS SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY BOUNDARY LINE OF LANDS DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED TO ARTHUR N. BLOMQUIST AND ELSIE U. BLOMQUIST, HIS WIFE FROM BLOMQUIST OIL SERVICE, INC., DATED FEBRUARY 1, 1961 AND RECORDED FEBRUARY 17, 1961 IN BOOK 3936 OF OFFICIAL RECORDS AT PAGE 449 (FILED NO. 32424-T), RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH 55° 13' 12" WEST 72.54 FEET FROM THE POINT OF INTERSECTION OF THE COURSES NORTH 55° 13' 12" WEST 411.22 FEET AND NORTH 88° 53' 28" WEST 936.33 FEET, AS RECITED IN THE LAST SAID DEED; THENCE FROM SAID POINT OF BEGINNING, SOUTH 34° 24' 17" WEST 7.58 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE LEFT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 383.06 FEET, THROUGH A CENTRAL ANGLE OF 3° 21' 23", AN ARC LENGTH OF 22.44 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THE LANDS OF DOUGLASS AND WOODHOUSE, AS SAID LANDS ARE DESCRIBED IN THAT CERTAIN DEED RECORDED OCTOBER 20, 1959 IN BOOK 3691 OF OFFICIAL RECORDS AT PAGE 496, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH 55° 13' 21" WEST 3.55 FEET, ALONG LAST SAID LINE, FROM THE MOST EASTERLY CORNER OF LAST SAID LANDS.

PARCEL IV:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL I ABOVE FOR THE CONSTRUCTION,

MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK, IN, OVER AND UPON A STRIP OF LAND 20 FEET WIDE, THE CENTERLINE OF WHICH STRIP IS SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY BOUNDARY LINE OF LANDS DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED TO ARTHUR N. BLOMQUIST AND ELSIE U. BLOMQUIST, HIS WIFE FROM BLOMQUIST OIL SERVICE, INC., DATED FEBRUARY 1, 1961 AND RECORDED FEBRUARY 17, 1961 IN BOOK 3936 OF OFFICIAL RECORDS AT PAGE 449 (FILED NO. 32424-T), RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH 55° 13' 12" WEST 72.54 FEET FROM THE POINT OF INTERSECTION OF THE COURSES NORTH 55° 13' 12" WEST 411.22 FEET AND NORTH 88° 53' 28" WEST 936.33 FEET, AS RECITED IN THE LAST SAID DEED; THENCE FROM SAID POINT OF BEGINNING, NORTH 34° 24' 17" EAST 42.42 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE LEFT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 383.06 FEET, THROUGH A CENTRAL ANGLE OF 13° 48' 18", AN ARC LENGTH OF 92.30 FEET; THENCE NORTH 20° 35' 59" EAST 87.39 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 383.06 FEET, THROUGH A CENTRAL ANGLE OF 14° 45' 30", AN ARC LENGTH OF 98.67 FEET; THENCE NORTH 35° 21' 29" EAST 89.23 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; THENCE ALONG THE ARC OF LAST CURVE, HAVING A RADIUS OF 440.00 FEET, THROUGH A CENTRAL ANGLE OF 42° 52' 30", AN ARC LENGTH OF 338.58 FEET; THENCE 78° 13' 59" EAST 520.22 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE LEFT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 800 FEET, THROUGH A CENTRAL ANGLE OF 2° 38' 55", AN ARC LENGTH OF 36.98 FEET TO A POINT ON THE EASTERLY LINE OF SAID LANDS OF BLOMQUIST OIL SERVICE AND THE EASTERLY TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.

PARCEL V:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL I ABOVE FOR THE CONSTRUCTION, MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK, IN, OVER AND UPON A STRIP OF LAND 20 FEET WIDE AND LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE, AND BEING A PORTION OF THAT CERTAIN 14.517 ACRE PARCEL CONVEYED TO THE BAYSHORE DEVELOPMENT COMPANY, A CALIFORNIA CORPORATION, BY DEED RECORDED DECEMBER 30, 1955 IN BOOK 2943 OF OFFICIAL RECORDS AT PAGE 483, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF THAT CERTAIN 12.266 ACRE PARCEL DESCRIBED IN THE DEED TO BLOMQUIST OIL SERVICE, RECORDED APRIL 28, 1949 IN BOOK 1654 OF OFFICIAL RECORDS AT PAGE 705, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, DISTANT THEREON NORTH 0° 03' 30" EAST 1917.47 FEET FROM THE SOUTHEASTERLY CORNER OF SAID PARCEL; THENCE NORTH 80° 36' 30" EAST 63.02 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, ON A RADIUS OF 382.25 FEET, THROUGH A CENTRAL ANGLE OF 19° 00', A DISTANCE OF 126.76 FEET; THENCE NORTH 61° 36' 30" EAST 52.27 FEET TO A POINT ON THE NORTHWESTERLY LINE OF THE 20 FOOT EASEMENT RECORDED IN BOOK 3107 OF OFFICIAL RECORDS AT PAGE 256, RECORDS OF SAN MATEO COUNTY, CALIFORNIA.

SAID EASEMENTS WERE CREATED BY DEED DATED JULY 14, 1966 AND RECORDED JULY 15, 1966 UNDER FILE NO. 81771-2, (BOOK 5190 OF OFFICIAL RECORDS AT PAGE 383), RECORDS OF SAN MATEO COUNTY, CALIFORNIA.

APN: 052-392-210-2 and 052-392-260-7

EXHIBIT B
MEMORANDUM OF OPTION AGREEMENT

Recording Requested by and:
When Recorded Return to:

This Space For Recorder's Use Only

MEMORANDUM OF REAL ESTATE OPTION AGREEMENT

By this Memorandum of Real Estate Option Agreement (this "**Memorandum**") dated as of _____, 2010, _____ ("**Owner**"), and **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), acknowledge and agree to the following:

1. Real Estate Option Agreement. Pursuant to the terms of that certain unrecorded Real Estate Option Agreement (the "**Option Agreement**"), by and between Owner and Optionee, dated as of _____, Owner has granted to Optionee the exclusive right and option to purchase that certain real property, consisting of approximately _____ acres, having Assessor Parcel No. _____, located in the City of _____, County of _____, State of California, as more particularly described on **Exhibit A** attached hereto (the "**Property**").

2. Term. The term of the Option Agreement, and any rights or interest of Optionee in and to the Property created hereby, shall begin on the date of this Memorandum, and shall end no later than December 31, 2011, and may end earlier as provided in the Option Agreement.

3. Price and Terms. The price and other terms are set forth in the Option Agreement, all of the terms, covenants and conditions of which are incorporated herein by reference as though set forth fully herein. In the event of any inconsistency between this Memorandum and the Option Agreement, the Option Agreement shall control. All capitalized terms used herein and not otherwise defined herein shall have the same meaning as is set forth in the Purchaser Agreement.

4. Effect. Owner and Optionee have executed and recorded this Memorandum for the purpose of imparting notice of the Option Agreement and the respective rights and obligations of Owner and Optionee thereunder. The obligations of Owner and Optionee to be

performed under the Option Agreement and this Memorandum, whether to be performed on the Property or elsewhere and whether such obligations are affirmative or negative in nature, are intended to and shall bind Owner and Optionee and shall bind and inure to the benefit of and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, Owner and Optionee have signed this Memorandum of Option Agreement dated as of the date first set forth above.

OWNER:

_____,
a _____

By: _____

Name: _____

Its: _____

OPTIONEE:

CITY OF REDWOOD CITY, a charter city and
municipal corporation of the State of California

By: _____

Name: _____

Its: _____

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

Exhibit A

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

PARCEL I:

PARCEL "A" AS SHOWN UPON PARCEL MAP NO. 2008-02 FILED FOR RECORD OCTOBER 22, 2008 IN VOLUME 78 OF PARCEL MAPS, AT PAGE 76-78 SAN MATEO COUNTY RECORDS.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK IN, OVER AND UPON A STRIP OF LAND TWENTY (20) FEET WIDE, LYING EQUALLY ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE ABOVE MENTIONED MAP, DISTANT THEREON NORTH 55° 13' 12" WEST 3.55 FEET FROM THE MOST EASTERLY CORNER OF LOT 2 AND RUNNING THENCE FROM SAID POINT OF BEGINNING, SOUTHWESTERLY, ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 383.06 FEET AND A CENTRAL ANGLE OF 10° 21' 09" AND BEING TANGENT TO A LINE BEARING SOUTH 31° 02' 54" WEST, FOR AN ARC DISTANCE OF 69.21 FEET; THENCE SOUTH 20° 41' 45" WEST 190 FEET, MORE OR LESS, TO THE SOUTHWESTERLY LINE OF SAID LOT 2.

PARCEL III:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL I ABOVE, FOR THE CONSTRUCTION, MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK IN, OVER AND UPON A STRIP OF LAND 20 FEET WIDE, THE CENTERLINE OF WHICH STRIP IS SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY BOUNDARY LINE OF LANDS DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED TO ARTHUR N. BLOMQUIST AND ELSIE U. BLOMQUIST, HIS WIFE FROM BLOMQUIST OIL SERVICE, INC., DATED FEBRUARY 1, 1961 AND RECORDED FEBRUARY 17, 1961 IN BOOK 3936 OF OFFICIAL RECORDS AT PAGE 449 (FILED NO. 32424-T), RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH 55° 13' 12" WEST 72.54 FEET FROM THE POINT OF INTERSECTION OF THE COURSES NORTH 55° 13' 12" WEST 411.22 FEET AND NORTH 88° 53' 28" WEST 936.33 FEET, AS RECITED IN THE LAST SAID DEED; THENCE FROM SAID POINT OF BEGINNING, SOUTH 34° 24' 17" WEST 7.58 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE LEFT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 383.06 FEET, THROUGH A CENTRAL ANGLE OF 3° 21' 23", AN ARC LENGTH OF 22.44 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THE LANDS OF DOUGLASS AND WOODHOUSE, AS SAID LANDS ARE DESCRIBED IN THAT CERTAIN DEED RECORDED OCTOBER 20, 1959 IN BOOK 3691 OF OFFICIAL RECORDS AT PAGE 496, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH 55° 13' 21" WEST 3.55 FEET, ALONG LAST SAID LINE, FROM THE MOST EASTERLY CORNER OF LAST SAID LANDS.

PARCEL IV:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL I ABOVE FOR THE CONSTRUCTION,

MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK, IN, OVER AND UPON A STRIP OF LAND 20 FEET WIDE, THE CENTERLINE OF WHICH STRIP IS SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY BOUNDARY LINE OF LANDS DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED TO ARTHUR N. BLOMQUIST AND ELSIE U. BLOMQUIST, HIS WIFE FROM BLOMQUIST OIL SERVICE, INC., DATED FEBRUARY 1, 1961 AND RECORDED FEBRUARY 17, 1961 IN BOOK 3936 OF OFFICIAL RECORDS AT PAGE 449 (FILED NO. 32424-T), RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH 55° 13' 12" WEST 72.54 FEET FROM THE POINT OF INTERSECTION OF THE COURSES NORTH 55° 13' 12" WEST 411.22 FEET AND NORTH 88° 53' 28" WEST 936.33 FEET, AS RECITED IN THE LAST SAID DEED; THENCE FROM SAID POINT OF BEGINNING, NORTH 34° 24' 17" EAST 42.42 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE LEFT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 383.06 FEET, THROUGH A CENTRAL ANGLE OF 13° 48' 18", AN ARC LENGTH OF 92.30 FEET; THENCE NORTH 20° 35' 59" EAST 87.39 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 383.06 FEET, THROUGH A CENTRAL ANGLE OF 14° 45' 30", AN ARC LENGTH OF 98.67 FEET; THENCE NORTH 35° 21' 29" EAST 89.23 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; THENCE ALONG THE ARC OF LAST CURVE, HAVING A RADIUS OF 440.00 FEET, THROUGH A CENTRAL ANGLE OF 42° 52' 30", AN ARC LENGTH OF 338.58 FEET; THENCE 78° 13' 59" EAST 520.22 FEET TO A POINT AT THE BEGINNING OF A TANGENT CURVE TO THE LEFT; THENCE ALONG THE ARC OF LAST SAID CURVE, HAVING A RADIUS OF 800 FEET, THROUGH A CENTRAL ANGLE OF 2° 38' 55", AN ARC LENGTH OF 36.98 FEET TO A POINT ON THE EASTERLY LINE OF SAID LANDS OF BLOMQUIST OIL SERVICE AND THE EASTERLY TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.

PARCEL V:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCEL I ABOVE FOR THE CONSTRUCTION, MAINTENANCE, USE AND OPERATION OF A RAILROAD TRACK, IN, OVER AND UPON A STRIP OF LAND 20 FEET WIDE AND LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE, AND BEING A PORTION OF THAT CERTAIN 14.517 ACRE PARCEL CONVEYED TO THE BAYSHORE DEVELOPMENT COMPANY, A CALIFORNIA CORPORATION, BY DEED RECORDED DECEMBER 30, 1955 IN BOOK 2943 OF OFFICIAL RECORDS AT PAGE 483, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF THAT CERTAIN 12.266 ACRE PARCEL DESCRIBED IN THE DEED TO BLOMQUIST OIL SERVICE, RECORDED APRIL 28, 1949 IN BOOK 1654 OF OFFICIAL RECORDS AT PAGE 705, RECORDS OF SAN MATEO COUNTY, CALIFORNIA, DISTANT THEREON NORTH 0° 03' 30" EAST 1917.47 FEET FROM THE SOUTHEASTERLY CORNER OF SAID PARCEL; THENCE NORTH 80° 36' 30" EAST 63.02 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, ON A RADIUS OF 382.25 FEET, THROUGH A CENTRAL ANGLE OF 19° 00', A DISTANCE OF 126.76 FEET; THENCE NORTH 61° 36' 30" EAST 52.27 FEET TO A POINT ON THE NORTHWESTERLY LINE OF THE 20 FOOT EASEMENT RECORDED IN BOOK 3107 OF OFFICIAL RECORDS AT PAGE 256, RECORDS OF SAN MATEO COUNTY, CALIFORNIA.

SAID EASEMENTS WERE CREATED BY DEED DATED JULY 14, 1966 AND RECORDED JULY 15, 1966 UNDER FILE NO. 81771-Z, (BOOK 5190 OF OFFICIAL RECORDS AT PAGE 383), RECORDS OF SAN MATEO COUNTY, CALIFORNIA.

APN: 052-392-210-2 and 052-392-260-7

EXHIBIT C
ASSIGNMENT AND BILL OF SALE

Reference is hereby made to that certain property located in the City of Redwood City, County of San Mateo, California (the "**Land**"), as described in more detail on Exhibit A of that certain Real Estate Option Agreement between Owner and Optionee (as such parties are defined below) dated as of _____, 2010 (the "**Agreement**"). Capitalized terms used but not defined in this Assignment and Bill of Sale (the "**Assignment**") have the meaning given to such terms in the Agreement.

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned ("**Owner**"), does hereby, give, grant, bargain, sell, transfer, assign, convey and deliver to **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), the following:

(a) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "**Appurtenances**");

(b) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which are collectively referred to as the "**Improvements**" and, together with the Land and the Appurtenances, the "**Real Property**"); and

(c) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and the Improvements, including, without limitation, (i) the right to use any trade name now used in connection with the Real Property, (ii) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (iii) all existing warranties and guaranties (express or implied) relating to the Real Property, (iv) Owner's rights under the contracts and agreements, if any, described on **Schedule ____** hereto (the "**Contracts**"), and (v) the Property Documents all other intangible rights or claims that run with or relate to the Real Property (collectively, the "**Personal Property**").

Optionee hereby assumes all of the obligations of Assignor under the Contracts described on **Schedule ____** attached hereto, to the extent such obligations relate to the period after the Closing under the Agreement (the "**Transfer Date**"), and agrees to be bound by such Contracts from and after the Transfer Date for the remainder of the terms thereof. Optionee's acceptance of this Assignment shall not constitute or be deemed to constitute an assumption by Optionee of any duties, liabilities or obligations of Owner under any other contracts or agreements.

Owner hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Optionee, its nominees, successor and /or assigns, any new or confirmatory instruments and do and perform any other acts which Optionee, its nominees, successors and/or assigns, may request in order to fully transfer possession and control of, and protect the rights of Optionee, its nominees, successors and/or assigns in, all the assets of Owner intended to be transferred and assigned hereby.

IN WITNESS WHEREOF, this Assignment is executed by Owner as of the date set forth above.

OWNER:

OPTIONEE:

SCHEDULE OF ASSUMED CONTRACTS

EXHIBIT D
ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE (this “**Assignment**”) is made and entered into as of _____, 20____ (the “**Agreement Date**”) by and between _____ (“**Assignor**”), and _____ collectively, “**Assignee**”).

RECITALS:

A. Assignor, as seller, and Assignee, as Optionee, entered into a Real Estate Option Agreement (the “**Option Agreement**”) dated as of _____ 2010, with respect to the sale and purchase of certain premises consisting of a single building located on certain real property as more particularly described in **Exhibit A** attached hereto (the “**Property**”).

B. In connection with the sale and purchase of the Property, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor’s right, title and interest in, to and under the lease (the “**Lease**”) attached hereto as **Exhibit “B”**.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenant and agreements contained herein and other good and valuable consideration, the parties agree as follows:

1. **Assignment**. Assignor hereby assigns and transfers to Assignee all of Assignor’s right, title, and interest in, to and under the Lease as landlord from and after the Transfer Date (as hereinafter defined).

2. **Assumption**. Assignee hereby assumes all of the obligations of Assignor under the Lease to be performed by landlord from and after the Transfer Date, and agrees to be bound by all of the terms, covenants, conditions, and provisions of the Lease from and after the Transfer Date for the remainder of the terms of the Lease.

3. **Transfer Date**. The Transfer Date shall be the date on which the close of escrow occurs under the Option Agreement.

4. **Prorations**. The parties shall prorate the rent, including additional rent, and other sums due under the Lease as of the Transfer Date based on a 365-day year as provided in the Option Agreement.

5. **Governing Law**. This Assignment and the rights and obligations of the parties hereunder shall in all respects be governed by, and interpreted in accordance with, the laws of the State of California. Assignor and Assignee agree that all suits or actions of any kind brought to interpret or enforce the terms of, or otherwise arising out of or relating to this Assignment shall

be filed and litigated solely in the state court in the county in which the Option Agreement is governed is located or if such suit or action cannot be filed and or litigated in state court, then in the federal court located closest to the Real Property as that term is defined in the Option Agreement. Each party hereby consents to the personal and subject matter jurisdiction of said courts. Assignor and Assignee agree that San Mateo County shall for all purposes be considered the place in which this Assignment was entered into, notwithstanding the order in which, or the location or locations at which, it may have been executed or delivered.

6. Attorneys' Fees. If a legal action, suit, or proceeding is brought by Assignor or Assignee to enforce or interpret any of the provisions of this Assignment, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection therewith. "**Prevailing party**" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other party is in breach or default, if such action is dismissed upon the other party's payment of the sums allegedly due or performance of the covenant allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action whether or not such action proceeds to a final judgment or determination.

7. Interpretation. This Assignment shall be interpreted in accordance with the common meaning of its terms and shall not be interpreted strictly for or against either party.

8. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, and when taken together they shall constitute one and the same Assignment. Signatures may be made by facsimile provided the original is promptly mailed to the other party.

9. Successors & Assigns. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the day and year first above written.

"ASSIGNOR"

"ASSIGNEE"

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT E
LIST OF CONTRACTS

EXHIBIT F
ESTOPPEL CERTIFICATE

Date: _____, 20__

To _____ ("Optionee");

THIS IS TO CERTIFY THAT:

1. The undersigned is the tenant ("Tenant") under that certain resume here dated _____, 20__ ("Lease") by and between _____, a _____, as Landlord, and _____, a _____, as Tenant, covering those certain premises commonly known as _____ Chemical Way in the City of Redwood City, California (the "Property"). A true and complete copy of the Lease is attached hereto.

2. Except as reflected on the documents attached to this Estoppel Certificate, the Lease has not been modified, changed, altered, assigned, supplemented or amended in any respect. Neither Tenant nor to Tenant's actual knowledge, Landlord is in default under the Lease, and the Lease is valid and in full force and effect on the date hereof. The Lease is the only lease or agreement between Tenant and Landlord affecting or relating to the Property. The Lease represents the entire agreement between Landlord and Tenant with respect to the Property.

3. Tenant is not entitled to, and has made no agreement(s) with Landlord or its agents or employees concerning free rent, partial rent, rebate or rental payments, credit or offset or deduction in rent, or any other type of rental concession, including, without limitation, lease support payments or lease buy-outs, except to the extent set forth in the Lease.

4. Tenant has accepted and now occupies the Property, and is and has been open for business since _____, 20__. The Lease Term began _____, 20__. The termination date of the present term of the Lease, excluding unexercised renewals is _____, 20__.

5. Tenant has paid Rent for the Property for the period up to and including _____, 20__, provided that Landlord has accepted from Tenant a promissory note evidencing certain unpaid rent accrued through the period ending _____, 2010. The Base Rent [CHECK LEASE TERMS] (excluding Tenant's Share of Taxes, Insurance and Operating Costs [MODIFY IF OFFICE LEASE], as such terms are defined in the Lease) payable to Landlord presently is \$_____ per month. No Rent has been paid more than one (1) month in advance of its due date. Tenant's security deposit is \$_____ (If none, state "none").

6. No event has occurred and no condition exists which, with the giving of notice or the lapse of time or both, will constitute a default under the Lease. Tenant has no existing defenses or offsets against the enforcement of this Lease by Landlord.

7. All conditions under this Lease to be performed by Landlord have been satisfied. All required contributions or allowances, if any, owed by Landlord under the Lease to Tenant on account of Tenant's tenant improvements have been received by Tenant.

8. No actions, whether voluntary or otherwise, are pending against Tenant or any general partner of Tenant under the bankruptcy laws of the United States or any state thereof.

9. Tenant has not sublet the Property to any sublessee and has not assigned any of its rights under the Lease, except as indicated below (if none, state "none"). No one except Tenant has its employees occupying the Property.

10. The address for notices to be sent to Tenant is as set forth in the Lease.

11. Tenant acknowledges that all the interest of Landlord in and to the Lease is being or will be duly assigned to Optionee or its assignee (assuming Optionee's escrow closes) and that pursuant to the terms thereof all rental payments under the Lease shall continue to be paid to Landlord in accordance with the terms of the Lease unless and until Tenant is notified in writing by Optionee, its assignee, or its successor or assigns.

12. The undersigned is authorized to execute this Tenant Estoppel Certificate on behalf of Tenant.

Tenant acknowledges that Optionee and Landlord are relying on the above-referenced representations concerning the Lease being accurate and complete as of the date hereof with the understanding that Optionee will rely upon such representations in connection with its planned purchase of the Property.

Dated this _____ day of _____, 20__.

TENANT:

_____, a _____

By: _____

Name: _____

Its: _____

Schedule 12(d)

Hazardous Materials Disclosure

Owner discloses to Optionee that the Real Property is located within 2,000 feet from the real property commonly known as 70 Chemical Way, Redwood City, California (the “**Adjacent Property**”). The Adjacent Property is the subject of on-going groundwater monitoring under the oversight of the Regional Water Quality Control Board, San Francisco Region. As provided in **Paragraph 10(b)** of this Agreement, within three (3) days after the Execution Date Owner shall provide Optionee with copies of the documentation, if any, in its possession describing the scope of contamination at the Adjacent Property (including the types and quantities of Hazardous Materials).

REAL ESTATE OPTION AGREEMENT

70 CHEMICAL WAY

THIS REAL ESTATE OPTION AGREEMENT (this "**Agreement**") is dated for reference purposes as of October 1, 2010 (the "**Agreement Date**") and is made and entered into by and between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California ("**Optionee**"), and **KONA VENTURES, LLC**, a California limited liability company ("**Owner**").

RECITALS

A. Owner is the owner of certain improved real property along with certain related tangible and intangible personal property.

B. Optionee desires to acquire the exclusive option to purchase such property from Owner on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Optionee and Owner hereby agree as follows:

AGREEMENT

1. Grant of Option to Purchase; Consideration.

(a) Grant of Option. Subject to the terms and conditions of this Agreement, Owner hereby grants to Optionee the exclusive right and option (the "**Option**") to purchase the following:

(i) The real property commonly known as 70 Chemical Way, consisting of approximately 0.956 acres of land, having Assessor Parcel Number 052-392-200, located in the City of Redwood City (the "**City**"), County of San Mateo (the "**County**"), California, as more particularly described in Exhibit A attached hereto (the "**Land**");

(ii) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "**Appurtenances**");

(iii) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which

are collectively referred to as the “**Improvements**” and, together with the Land and the Appurtenances, the “**Real Property**”); and

(iv) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and Improvements, including, without limitation, (i) the right to use any trade name now used in connection with the Real Property, (ii) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (iii) all existing warranties and guaranties (express or implied) relating to the Real Property, (iv) Owner's rights under any agreements relating to maintenance and service of the Real Property and other rights relating to the ownership, use and operation of the Real Property (the “**Contracts**”), (v) Owner's rights under that certain Standard Industrial/Commercial Lease Single-Tenant Lease-Net between Owner (as the landlord) and Valley Crest Companies, a California corporation (“**Tenant**”), dated October 5, 2006 (the “**Lease**”), (vi) the Property Documents (as defined in **Paragraph 10(b)**), and (vii) all other intangible rights or claims that run with or relate to the Real Property (collectively, the “**Personal Property**” and, together with the Real Property, the “**Property**”). Notwithstanding the foregoing, Optionee shall not be deemed to have assumed any obligations of Owner under any Contract or other agreement unless Optionee expressly assumes such obligations in writing.

(b) Non-Refundable Option Payment. As good and adequate consideration for the grant of the Option, within one (1) business day following the Opening of Escrow (as defined in **Paragraph 4(a)**), Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with First American Title Company (the “**Escrow Holder**”) at its office at 901 Mariners Island Boulevard, Suite 380, San Mateo, California, 94404 (attention: Karen Matsunaga, telephone (650) 638-9106), a cash sum equal to Two Thousand Dollars (\$2,000) (the “**Option Payment**”). Owner acknowledges that the Option Payment constitutes good, adequate and reasonable consideration for the grant of the Option, taking into account, among other things, the Purchase Price (as defined in **Paragraph 3(a)**) for the Property, the appraised value of the Property, and the length of the Option Term (as defined in **Paragraph 2(a)**). In addition, Owner acknowledges that Optionee will incur additional costs and expenses in evaluating the Property during the Feasibility Period (as defined in **Paragraph 10(a)**) and that Optionee's expenditure of such funds constitutes additional and adequate consideration for the grant of the Option. Following the Opening of Escrow the Option Payment shall not be refundable under any circumstances and shall immediately be released to Owner from Escrow. The Option Payment shall be credited to the Purchase Price.

(c) Refundable Initial Deposit. In addition to the Option Payment, concurrent with the deposit of the Option Payment into Escrow, Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with Escrow Holder a cash sum equal to Forty-Eight Thousand Dollars (\$48,000) (the “**Initial Deposit**”). While in Escrow, the Initial Deposit shall be held in an interest-bearing account by the Escrow Holder for the benefit of Optionee. The Initial Deposit and any interest earned thereon while in the Escrow shall be applicable to the Purchase Price (as defined below). If Optionee provides the Notice to Proceed (as defined in **Paragraph 10(a)** hereof) prior to the expiration of the Feasibility Period, the Initial Deposit shall become non-refundable (except if Owner defaults on its obligations herein or as otherwise expressly provided for herein) and shall remain in Escrow pending the Closing (as defined in **Paragraph 4(c)** hereof) or earlier termination of this Agreement; provided, however, that if

Optionee exercises the first Extension Option (as defined in **Paragraph 2(b)**), then the Initial Deposit shall be released from Escrow and paid to Owner concurrently with Optionee's exercise of such Extension Option. If Optionee does not provide the Notice to Proceed prior to the expiration of the Feasibility Period, Owner and Optionee hereby authorize Escrow Holder to immediately release the Initial Deposit (and all of the interest earned thereon) to Optionee at the expiration of the Feasibility Period without any additional documentation required from the parties. Owner releases Escrow Holder from all liability in connection with the release of the Initial Deposit to Optionee in accordance with the preceding sentence, and following such release of the Initial Deposit, neither party shall have any further rights or obligations hereunder (other than those arising from a party's breach of this Agreement or otherwise as expressly provided herein). The Initial Deposit shall be credited to the Purchase Price.

(d) Additional Deposits. If this Agreement is not terminated during or at the end of the Feasibility Period, and if Optionee exercises any of its Extension Options as provided in **Paragraph 2(b)**, then concurrently with the exercise of any such Extension Option, Optionee shall deposit into Escrow additional payments (each, an "**Additional Deposit**") in accordance with the terms and conditions of **Paragraph 2(b)**. The Additional Deposits shall constitute good and adequate consideration for the extension of the Option and once released to Owner shall not be refundable to Optionee (even if Optionee never exercises the Option) except in the event of a breach or default by Owner or the failure of a condition to Closing pursuant to **Paragraph 10**.

(e) Deposits Defined. As used in this Agreement, the term "**Deposits**" means the Initial Deposit and each Additional Deposit, if any, that Optionee deposits in Escrow as provided in **Paragraph 2(b)** below. Each Deposit shall be either an "**Applicable Deposit**" or a "**Non-Applicable Deposit**." The Initial Deposit and each Applicable Deposit, if any, made by Optionee that is designated as an Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed "**Applicable Deposits**" and shall be credited to the Purchase Price at the Closing. Each Additional Deposit, if any, that is made by Optionee and that is designated as a Non-Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed a "**Non-Applicable Deposit**" and shall not be credited to the Purchase Price.

2. Option Term; Exercise of Option.

(a) Option Term. The term of the Option shall commence upon the date that this Agreement has been executed and delivered by both Owner and Optionee, as evidenced by the last date set forth below the signatures of Owner and Optionee hereto (the "**Execution Date**"), and shall expire on December 27, 2010 (the "**Initial Option Term**"), unless earlier exercised or extended pursuant to **Paragraph 2(b)** below. As used in this Agreement, the term "**Option Term**" means the Initial Option Term plus each Extension Period with respect to which Optionee has exercised an Extension Option pursuant to **Paragraph 2(b)**.

(b) Extension of Option Term. Notwithstanding **Paragraph 2(a)** or any other provision of this Agreement to the contrary, but subject to **Paragraph 4(d)** below, Optionee shall have the right to extend the Initial Option Term up to twelve (12) times (each, an "**Extension Option**") for twelve (12) consecutive periods of approximately one-month each (each, an "**Extension Period**"), as set forth in the table below (the "**Table**"). In order to exercise the first Extension Option (i.e., for the period from December 27, 2010, through January 31, 2011), on or

before close of business on December 27, 2010, Optionee shall (i) notify Escrow Holder and Owner that Optionee elects to exercise the first Extension Option, (ii) instruct Escrow Holder to release to Owner the Initial Deposit, and (iii) deposit into Escrow for immediate release to Owner the Additional Deposits in the amount set forth in the Table that corresponds to the first Extension Period. In order to exercise the second (and each subsequent) Extension Option, Optionee shall (x) notify Escrow Holder and Owner on or before the commencement of the applicable Extension Period that Optionee elects to exercise the Extension Option corresponding to such Extension Period and (y) deposit into Escrow for immediate release to Owner the Applicable Deposit or the Non-Applicable Deposit, as the case may be, that corresponds to each such Extension Period, in accordance with the Table below:

<u>Extension Period</u>	<u>Applicable Deposit</u>	<u>Non-Applicable Deposit</u>	<u>Total Deposits</u>
12/27/2010 through 1/31/2011	\$54,000 (comprised of the Initial Deposit of \$48,000, plus an Additional Deposit of \$6,000)	\$27,000	\$81,000
2/1/2011 through 2/28/2011	\$0.00	\$13,500	\$13,500
3/1/2011 through 3/31/2011	\$0.00	\$13,500	\$13,500
4/1/2011 through 4/30/2011	\$0.00	\$13,500	\$13,500
5/1/2011 through 5/31/2011	\$0.00	\$13,500	\$13,500
6/1/2011 through 6/30/2011	\$13,500	\$0.00	\$13,500
7/1/2011 through 7/31/2011	\$13,500	\$0.00	\$13,500
8/1/2011 through 8/31/2011	\$13,500	\$0.00	\$13,500
9/1/2011 through 9/30/2011	\$13,500	\$0.00	\$13,500
10/1/2011 through 10/31/2011	\$13,500	\$0.00	\$13,500

11/1/2011 through 11/30/2011	\$13,500	\$0.00	\$13,500
12/1/2011 through 12/28/2011	\$13,500	\$0.00	\$13,500

(c) Exercise of Option. The Option shall be exercisable by Optionee in its sole and absolute discretion at any time during the Option Term, and shall be exercised, if at all, by delivery to Owner and the Escrow Holder within the Option Term of written notice (the “**Exercise Notice**”) of Optionee’s exercise of the Option. If Optionee exercises the Option, then (i) Optionee shall not be required to make any Additional Deposits, (ii) Optionee shall be obligated to purchase the Property, subject to the terms and conditions of this Agreement, and (iii) the parties shall proceed to the Closing as provided in **Paragraph 4(c)** and the other applicable provisions of this Agreement. If Optionee exercises an Extension Option, then the Option Term shall be extended for the Extension Period corresponding to such Extension Option. If the Option is not exercised as provided herein on or before the expiration of the Option Term, or if the Option Term is not extended as provided in **Paragraph 2(b)**, then subject to **Paragraph 21** below, the Option shall lapse and be of no further force or effect.

(d) Limitations on Extension Options. Owner acknowledges that Optionee is considering the purchase of the Property, together with certain adjacent properties that Optionee also desires to acquire the option to purchase (collectively, the “**Site**”), in order to redevelop the Site for public purposes (the “**Project**”). In order to proceed with the Project, Optionee may be required to undertake certain environmental and other studies and to obtain certain approvals or clearances that are necessary or appropriate for the redevelopment of the Site, including without limitation the subdivision, re-subdivision or merger of the various parcels comprising the Site, zoning and/or general plan changes, and compliance with the California Environmental Quality Act and applicable regulations and requirements relating to the Project (collectively, the “**Project Approvals**”). Optionee shall work in good faith to obtain the Project Approvals, provided that Optionee makes no assurances that it will be successful in obtaining the Project Approvals or the time required to obtain the Project Approvals. However, if Optionee obtains the Project Approvals, then notwithstanding that Optionee may have one or more unexercised Extension Options at the time it obtains the Project Approvals, the Option Term shall be deemed to have expired on the date that is thirty (30) days after the Project Approvals have been finally approved. As used in this **Paragraph 2(d)**, the Project Approvals shall be deemed to have been “**finally approved**” only after all applicable governmental authorities and public agencies having jurisdiction thereof (collectively, the “**Governmental Authorities**”) have granted, certified, or otherwise issued the Project Approvals and all applicable appeal periods for such Project Approvals shall have expired without an appeal or challenge having been taken or made or, if any such appeal or challenge is taken or made, then upon resolution of that appeal or challenge without any change or revision thereto as originally approved by the Governmental Authorities, or with only changes or revisions being made thereto which are approved by Optionee in its reasonable discretion.

3. Purchase Price.

(a) Purchase Price. The purchase price for the Property shall be Two Million Seven Hundred Thousand Dollars (\$2,700,000) (the "**Purchase Price**"). If Optionee exercises the Option, the Purchase Price shall be paid by Optionee to Owner at the Closing as follows: (a) Optionee shall receive a credit to the Purchase Price equal to the sum of the Option Payment, the Initial Deposit, and all Applicable Deposits made by Optionee, plus all interest accrued on the Deposits while in Escrow, and (b) Optionee shall deposit into the Escrow at or prior to the Closing for delivery to Owner a sum (the "**Closing Payment**") equal to the balance of the Purchase Price.

(b) Loan Payoff. The Property currently is encumbered by a deed of trust (the "**Deed of Trust**") securing a Loan (the "**Loan**") evidenced by a promissory note (the "**Note**") in the original principal amount of One Million Seventeen Thousand Dollars (\$1,017,000) (the "**Loan**") in favor of Standard Insurance Company ("**Lender**"). The Deed of Trust was recorded on August 28, 2006, as Instrument No. 2006-129197 of the official records of San Mateo County, California. At the Closing, Owner shall cause the deed of trust and any other documents evidencing or securing the Loan to be released and reconveyed. To the extent that a prepayment fee or premium or any other amounts are required to be paid to the Lender (including without limitation, principal, interest, reconveyance fees, or other fees or costs of any kind) in connection with the payoff of the Loan and the reconveyance of the Deed of Trust, Owner shall be solely responsible for paying such amounts without reimbursement from Optionee.

4. Escrow.

(a) Opening of Escrow. Promptly after the full execution and delivery of this Agreement, the parties will open an escrow (the "**Escrow**") with Escrow Holder and shall deposit with Escrow Holder a copy of this fully executed Agreement, or executed counterparts hereof. The "**Opening of Escrow**" shall be deemed to have occurred on the date following the execution and delivery of this Agreement by Optionee and Owner that Escrow Holder executes the "Acceptance of Escrow Holder" immediately following the signature pages of this Agreement (the "**Acceptance**") and returns to Optionee and Owner such Acceptance.

(b) Instructions and Fees. This Agreement constitutes joint instructions to the Escrow Holder to consummate the purchase in accordance with the terms and provisions hereof; provided, however, that the parties shall execute such additional escrow instructions, not inconsistent with the provisions hereof, as may be deemed reasonably necessary to carry out the intentions of the parties as expressed herein. If the Closing occurs, Optionee shall pay the cost of the title insurance premium for the Title Policy (as defined in **Paragraph 5(c)**) and City and County documentary transfer taxes, if any. If the Closing occurs, Owner shall pay the costs of removing any exceptions to title (other than Permitted Exceptions), as defined in **Paragraph 5(a)**, and Personal Property Encumbrances, as defined in **Paragraph 5(d)**. Escrow Fees, recording fees, and any other closing costs shall be borne by the parties in accordance with the custom of the County.

(c) Closing. The "**Closing**" shall occur on a date selected by Optionee (either following or concurrently with the exercise of the Option), provided that Owner has received at

least fifteen (15) days prior written notice of such date (the “**Closing Date**”), and provided further that the Closing Date shall occur not earlier than thirty (30) days after the Opening of Escrow and no later than thirty (30) days after Optionee’s exercise of the Option pursuant to **Paragraph 2(c)** (the “**Outside Date**”). If Optionee exercises the Option but fails to provide Owner with at least fifteen (15) days prior written notice of the Closing Date, then unless otherwise agreed in writing by Optionee and Owner the Closing Date shall be the Outside Date. The Closing shall occur only after (i) Optionee has exercised the Option, (ii) all parties to Escrow have fully performed their respective duties, (iii) Escrow Holder is irrevocably committed to issue to Optionee the Title Policy, and (iv) nothing remains to be done in order to transfer to Optionee fee title to the Real Property other than Escrow Holder’s recordation of Owner’s grant deed (the “**Grant Deed**”) with the County recorder; provided that the Closing shall be deemed to have occurred only upon recordation of the Grant Deed with the County recorder.

5. Title.

(a) Title Review. Within ten (10) days after the Opening of Escrow, Optionee shall obtain a current preliminary title report for the Real Property issued by Escrow Holder, together with legible and complete copies of all underlying documents referenced as exceptions in the Title Report and a plot plan for the Real Property showing the locations of all recorded easements (collectively, the “**Title Report**”). Optionee shall have the right to obtain an ALTA survey or other survey (the “**Survey**”) of the Real Property at Optionee’s sole cost and, if it obtains the Survey, Optionee shall provide Owner with a copy of it. Within fifteen (15) business days following Optionee’s receipt of both the Title Report and the Survey (collectively, the “**Title Documents**”) but not later than November 10, 2010, Optionee shall either approve in writing the exceptions contained in the Title Documents or specify in writing any exceptions or other matters shown on the Survey to which Optionee objects. All title exceptions and Survey matters not objected to, as well as the Lease and the lien for current taxes not yet delinquent, shall be referred to as “**Permitted Exceptions**,” except for the following (collectively, “**Owner Removal Items**”): liens of deeds of trust or other monetary obligations, judgment liens, and leases or other occupancy agreements (other than the Lease), none of which shall constitute “Permitted Exceptions.” Owner shall have ten (10) days after receipt of such notice to advise Optionee by written notice of any disapproved exceptions or matters which will not be removed from title by Owner prior to the Closing (other than Owner Removal Items, which Owner shall be required to remove prior to the Closing). If Optionee provides the Notice to Proceed to Owner during the Feasibility Period, the exceptions contained in the Owner’s notice (other than Owner Removal Items) shall be deemed additional Permitted Exceptions.

(b) New Exceptions. If any new exceptions or matters are first included in any supplement or update to the Title Report issued after the expiration of the Feasibility Period (collectively, “**New Exceptions**”), Optionee shall notify Owner in writing on or before 5:00 p.m. Pacific Time within three (3) business days after receipt of such supplement if Optionee disapproves some or all of the New Exceptions (the “**New Exceptions Objection Notice**”). If Optionee timely delivers to Owner a New Exceptions Objection Notice, Owner shall thereafter have five (5) business days to determine whether Owner is willing to remove the New Exceptions (the “**Decision Period**”) and deliver notice to Optionee. If at the end of the Decision Period Owner is unwilling to remove the New Exceptions, and if Optionee is unwilling to waive its objections, then either party may terminate this Agreement upon notice to the other. If

Optionee waives its objections and elects to proceed to Closing, the New Exceptions shall be deemed to be Permitted Exceptions and Optionee shall not be entitled to any reduction in the Purchase Price. In the event that Owner fails to deliver Owner's response notice to Optionee as set forth in this **Paragraph 5(b)**, Owner shall be deemed to have elected not to remove the New Exceptions. If prior to the end of the Decision Period Owner advises Optionee that Owner is willing to remove the New Exceptions, then Owner thereafter shall cause the New Exceptions to be removed by the Closing Date. Notwithstanding the foregoing, Owner shall be required to remove at its sole cost any New Exceptions that constitute Owner Removal Items, irrespective of whether Optionee expressly has objected to such exceptions or items.

(c) Title Delivered at Closing. By executing the Grant Deed, Owner shall convey to Optionee (or to such other person or entity as Optionee may designate) marketable fee title to the Real Property subject only to the Permitted Exceptions. Immediately following recordation of the Grant Deed, Escrow Holder shall issue to Optionee an ALTA extended coverage owner's policy of title insurance (2006 form), with coverage in the amount of the purchase price for the Real Property, showing fee simple title to the Real Property vested in Optionee, subject only to the Permitted Exceptions (the "**Title Policy**").

(d) Personal Property Encumbrances. To the extent that any of the Personal Property is encumbered by Uniform Commercial Code financing statements or other liens or encumbrances ("**Personal Property Encumbrances**"), Owner shall cause such Personal Property Encumbrances to be released or otherwise removed prior to the Closing

6. Liquidated Damages. OPTIONEE AND OWNER AGREE THAT IF OPTIONEE EXERCISES THE OPTION PURSUANT TO **PARAGRAPH 2(c)** AND THEREAFTER DEFAULTS ON ITS OBLIGATION TO PURCHASE THE PROPERTY PURSUANT HERETO, THE DAMAGES TO OWNER WOULD BE DIFFICULT AND IMPRACTICAL TO DETERMINE. ACCORDINGLY, IN THE EVENT OF SUCH DEFAULT BY OPTIONEE, OPTIONEE AND OWNER HAVE AGREED TO FIX AS LIQUIDATED DAMAGES THE DEPOSITS, BUT ONLY TO THE EXTENT THE DEPOSITS HAVE THERETOFORE BEEN DEPOSITED WITH ESCROW HOLDER OR PAID DIRECTLY TO OWNER, AND SUCH DEPOSITS SHALL BE RETAINED BY OWNER AS LIQUIDATED DAMAGES, AND SHALL CONSTITUTE OWNER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT. OWNER'S RETENTION OF SUCH DEPOSITS AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY UNDER CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO OWNER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. OWNER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTIONS 1680 AND 3389. OWNER AGREES THAT THESE LIQUIDATED DAMAGES SHALL BE IN LIEU OF ANY OTHER MONETARY RELIEF OR OTHER REMEDY, INCLUDING WITHOUT LIMITATION SPECIFIC PERFORMANCE, TO WHICH OWNER OTHERWISE MIGHT BE ENTITLED UNDER THIS AGREEMENT, AT LAW OR IN EQUITY. OPTIONEE AND OWNER SPECIFICALLY ACKNOWLEDGE THEIR AGREEMENT TO THE FOREGOING LIQUIDATED DAMAGES PROVISION BY INITIALING THIS PARAGRAPH IN THE APPROPRIATE SPACES PROVIDED BELOW.

Optionee's Initials

PC

Owner's Initials

Handwritten signature/initials

The above Liquidated Damages provisions shall not limit Optionee's liability to the extent set forth in this Agreement for any damage to persons or property to the extent caused by Optionee or any Optionee's Authorized Parties (as defined in **Paragraph 9(a)**), which liability shall be in addition to the liquidated damages referenced above

7. Prorations. If the Closing occurs, all income, if any, and expenses of the Real Property shall be apportioned as of 12:01 a.m., on the day of Closing as if Optionee were vested with title to the Real Property during the entire day upon which Closing occurs. Notwithstanding the generality of the preceding sentence, specific items of income and expense shall be prorated as follows:

(a) Collected Rent. All collected rent, collected tenant reimbursements for Operating Expenses (as defined in **Paragraph 7(b)** below), and other collected income for the month of Closing under the Lease shall be prorated as of the Closing Date. Optionee shall be credited with any rent and other income collected by Owner before the Closing Date but applicable to any period of time from and after the Closing Date. Uncollected rent and other income shall not be prorated on the Closing Date. Any rent received by Owner after the Closing Date with respect to time periods from and after the Closing Date shall be delivered to Optionee within five (5) days of Owner's receipt. Optionee shall apply rent and other income that is collected from the Tenant after the Closing Date first to the obligations then owing to Optionee for its period of ownership and to those reasonable attorneys' fees incurred by Optionee in collecting such amount, and shall remit the balance to Owner, to the extent attributable to the period prior to the Closing Date. Within ninety (90) days following the Closing Date, Owner may pursue collection as to any rent owing by the Tenant attributable to the period prior to the Closing, provided that Owner shall have no right to seek to terminate the Lease or Tenant's occupancy under the Lease in connection with its collection efforts.

(b) Operating Expenses. Taxes, insurance, utilities (to the extent not paid directly by the Tenant), common area maintenance and other operating costs and expenses in connection with the ownership, operation, maintenance and management of the Real Property (collectively "**Operating Expenses**") shall be prorated as of the Closing Date as set forth in **Paragraph 7(a)**. Those Operating Expenses being paid directly by the Tenant shall not be prorated. Operating Expenses that are not payable by the Tenant either directly or not reimbursable under the Lease shall be prorated between Owner and Optionee on an accrual basis.

(c) Taxes and Assessments. Owner shall pay any delinquent real property taxes and assessments relating to the Real Property. Non-delinquent real estate taxes and assessments imposed by any governmental authority shall be prorated as of the Closing Date based upon the tax bill(s) received for and applicable to the period(s) in which the Closing Date occurs; or, to the extent such tax bill(s) and applicable amount(s) are not available by the Closing Date, based on the most recent ascertainable assessed values and tax rates. Owner shall receive a credit for any prepaid taxes and assessments paid by Owner attributable to the period prior to the Closing to the end of the applicable taxing period.

(d) Utility Charges. Prepaid water, sewer, and other utility charges shall be credited to Owner, and unpaid water, sewer, and other utility charges accruing prior to the Closing shall be credited to Optionee. However, no such prorations shall be made to the extent any such utilities are contracted for and paid directly by the Tenant. Optionee shall credit to the account of Owner all refundable cash or other deposits posted by Owner with utility companies serving the Real Property or, at Optionee's option, Owner shall be entitled to receive and retain such refundable cash and deposits.

(e) Tenant Deposits. All tenant security deposits made pursuant to the Lease ("Security Deposits") actually received by Owner (and interest thereon if required by law or contract to be earned thereon) and not previously applied to Tenant's obligations under the Lease shall be transferred or credited to Optionee at Closing. As of the Closing, Optionee shall assume Owner's obligations related to the Security Deposits.

(f) Contracts. Any amounts owing under the Contracts that are assigned to and assumed by Optionee pursuant to **Paragraph 15(a)** shall be prorated as of the Closing Date.

(g) Additional Deposits. Any Non-Applicable Deposits made by Optionee pursuant to **Paragraph 2(b)** shall not be prorated. By way of example, if pursuant to **Paragraph 2(b)** Optionee makes a Non-Applicable Deposit of Thirteen Thousand Five Hundred Dollars (\$13,500) on February 1, 2011 (for the Extension Period ending on February 28, 2011), and if the Closing occurs on February 15, 2011, then there shall be no proration of such Non-Applicable Deposit notwithstanding that the Closing occurs prior to the expiration of the applicable Extension Period. The Applicable Deposits (together with the Initial Deposit and the Option Payment) shall be fully credited to the Purchase Price irrespective of when the Closing occurs.

(h) Other Amounts. Any other operating expense or other items pertaining to the Real Property which are customarily prorated between buyers and sellers of real property in the County shall be prorated between Owner and Optionee in accordance with local custom.

(i) Post-Closing Adjustments. Except as otherwise provided in this Agreement, any revenue or expense amount that cannot be ascertained with certainty as of the Closing Date shall be prorated on the basis of the parties' reasonable estimates of such amount, and shall be the subject of a final proration after the Closing. The parties acknowledge that Operating Expenses payable by the Tenant under the Lease are calculated and payable based upon estimates of Operating Expenses expected to be incurred, and such estimates are reconciled at the end of each year based upon actual expenses incurred for the year. Owner and Optionee agree that, to the extent items are prorated or adjusted at Closing on the basis of estimates, or are not prorated or adjusted at Closing pending actual receipt of funds or compilation of information upon which such prorations or adjustments are to be based, each of them will, upon a proper accounting, pay to the other such amounts as may be necessary such that Owner will receive the benefit of all income and will pay all expenses of the Property prior to the Closing Date and Optionee will receive all income and will pay all expenses of the Property after the Closing Date. Owner and Optionee agree that as soon as reasonably possible, but in no event later than April 15, 2012, the parties shall undertake a final master reconciliation of Operating Expenses, taxes and other pass-throughs and additional rent with respect to the Lease and the Property. Such

reconciliation shall be final. Optionee shall prepare the tenant reconciliations for Owner's review. Optionee shall transmit such information to Tenant.

8. Possession. Exclusive possession of the Real Property shall be delivered to Optionee as of the Closing Date, subject only to the possessory rights of the Tenant under the Lease. Until possession is delivered to Optionee, at its sole cost and expense Owner shall maintain and keep the Real Property in not less than the same order and condition as on the Agreement Date. Possession of and legal title to the Real Property shall be delivered to Optionee free and clear of all tenancies and occupancies, other than the possessory rights of the Tenant.

9. Authorization to Enter; Cooperation.

(a) Authorization to Enter. From and after the Execution Date, Optionee and its agents, employees, contractors, consultants, and other designees (collectively, "**Optionee's Authorized Parties**") may, upon three (3) business days' prior written notice, enter upon the Real Property to conduct any activity and perform any investigation, test, study or analysis for the purpose of determining the feasibility of the Real Property for Optionee's planned development of the Real Property, including, but not limited to, soils studies, Phase I and/or Phase II Hazardous Materials (as defined in **Paragraph 12(d)**) studies, engineering and soil studies, tree surveys, archeological studies, biological studies, utilities studies, hydrology studies and any other matters necessary to evaluate the suitability of the Real Property for Optionee's contemplated purposes. Notwithstanding the above (i) no invasive testing shall be done without Owner's written consent which shall not be unreasonably withheld (it being agreed that Owner shall respond to Optionee's written request for consent within three (3) business days after receipt of such request), and (ii) Optionee shall provide Owner with copies of all results and reports received as a result of any investigation, test, study, or analysis regarding the physical condition of the Property done by any third party consultants on behalf of Optionee. Optionee shall pay all costs with respect to such studies and tests. Optionee's Authorized Parties may bring such equipment on the Real Property as is necessary or appropriate to make such studies. Optionee shall maintain, repair and restore the Real Property as necessary to remedy any damage to the Real Property to the extent caused by the feasibility activities of Optionee's Authorized Parties on the Real Property, shall take reasonable precautions to minimize interference with the activities of Owner on the Real Property, and shall indemnify and hold harmless Owner and Owner's Parties (as hereinafter defined in **Paragraph 13(d)**) from and against all suits, causes of action, claims, liabilities, damages, losses, fees, fines, costs and expenses including attorneys' and experts' fees (collectively, "**Claims**"), for any injury, loss, or damage to persons or property occurring in connection with the inspections and studies conducted by Optionee's Authorized Parties, except that Optionee shall have no liability for and no obligation to remedy any conditions or defects on or under the Real Property (i) not caused by a Optionee Authorized Party including those that are discovered by a Optionee Authorized Party during its investigations and inspections, or (ii) resulting from the acts or omissions of Owner, or any past and/or present occupant of the Real Property or their respective agents, engineers, contractors, consultants and representatives. Optionee's obligations to indemnify and hold Owner and Owner's Parties harmless pursuant to this **Paragraph (9a)** shall survive the termination of this Agreement and the Closing.

(b) Cooperation. Owner shall provide Optionee and its consultants with the opportunity to consult with Owner's environmental consultants and to review any work product prepared by or in the possession of such consultants provided Owner is not legally or contractually precluded from doing so. Owner shall cooperate (at no out-of-pocket cost to Owner) in all reasonable respects in connection with Optionee's evaluation of the environmental condition of the Property and any required clean-up or remediation of Hazardous Materials on, at or under the Property, including executing any authorizations or other documents required for Optionee to obtain access to documents or other information relating to the condition of the Property.

10. Conditions of Optionee's Performance. Optionee's obligation to close escrow under this Agreement is subject to Optionee's written approval of the following conditions at or before the earlier of the Closing or such earlier time expressly provided below in this **Paragraph 10**, but Optionee shall have the right to waive any such condition in writing within the time period specified in such condition. If any of the following conditions is not satisfied or waived in writing by Optionee, then Optionee shall be entitled to terminate this Agreement, in which event the Deposits shall be returned immediately to Optionee with interest earned thereon, without any further obligation on the part of either Optionee or Owner, subject to any remedies Optionee may have to the extent that a failure of condition also constitutes a default by Owner under this Agreement.

(a) Feasibility Study. Optionee may, in Optionee's sole discretion, approve or disapprove the condition of the Real Property and the feasibility of using the Real Property for Optionee's intended purposes (the "**Feasibility Study**") at any time during the period (the "**Feasibility Period**") commencing on the Opening of Escrow and ending at 5:00 p.m. on the date that is ninety (90) days after the Opening of Escrow. During the Feasibility Period, Optionee shall have the right to deliver to Owner written notice (the "**Notice to Proceed**") of Optionee's approval of the Feasibility Study and election to proceed with the purchase of the Property. Optionee shall be deemed to have disapproved the Feasibility Study if Optionee does not deliver the Notice to Proceed to Owner during the Feasibility Period. If Optionee disapproves of or is deemed to have disapproved of the Feasibility Study, then the Deposits previously made by Optionee shall be immediately returned to Optionee.

(b) Documents. To the extent Owner has not previously done so, within three (3) days after the Execution Date, Owner shall provide Optionee with copies of all Contracts, soil and hydrology reports, environmental or toxic material reports, engineering reports, biological studies, archeology reports, improvement plans and specifications, engineering studies, traffic studies, earthquake studies, site history investigation documents, surveys, civil, architectural, landscape and grading plans, working drawings, leases (including all amendments, assignments and other modifications thereof), copies of title insurance policies for the Property, copies of notices of default and/or correspondence with the Tenant relating to actual or alleged defaults by Owner or the Tenant or disputes between Owner and the Tenant, a copy of all income and expense statements (including annual Operating Expense reconciliation statements and correspondence between Owner and the Tenant concerning any disputes or calculations regarding Operating Expenses) for the Property for the prior three (3) years, a list of the Personal Property, copies of all warranties and guaranties pertaining to the Property, unrecorded subordination agreements, unrecorded non-disturbance agreements, subleases,

estoppel certificates, licenses, agreements affecting the Real Property, and other information relating to the Real Property, whether in final form or in process, to the extent such documents are in Owner's possession (collectively, the "**Property Documents**"). Notwithstanding the above, Property Documents shall not include any internal reports or documentation generated for the sole use of the members, shareholders, partners, trustees and other constituents of Owner (other than income and expense reports), letters of interest, purchase agreements, expired leases, appraisals, or entity governing documents. Following the delivery of all Property Documents to Optionee, Owner shall provide Optionee with written notification that all Property Documents have been delivered by Owner. Optionee shall have the opportunity to review and approve all Property Documents during the Feasibility Period. If any new Property Documents are first obtained by Owner after the Execution Date, Owner immediately shall deliver such new Property Documents to Optionee. Optionee shall have the right to use all Property Documents, and the Purchase Price includes payment for all Property Documents. Optionee shall not disclose any information contained in the Property Documents, provided that Optionee shall have the right to disclose such information to the following parties and in the following circumstances: (i) Optionee is required to disclose information in the Property Documents in response to a subpoena or other regulatory, administrative or court order, (ii) independent legal counsel to Optionee delivers a written opinion to Owner that Optionee is required to disclose such information, (iii) to actual or potential assignees of this Agreement, (iv) in response to a request for discovery in any legal or administrative proceeding; (v) in connection with any litigation or other dispute by or among the parties to this Agreement; (vi) to the extent any information contained in the Property Documents is or becomes part of the public domain through no fault of Optionee; (vii) in connection with obtaining, administering, and enforcing rights with respect to insurance (including without limitation underwriting insurance, adjusting claims or otherwise procuring, adjusting, challenging, administering, disputing or litigating any issues concerning insurance); (viii) to Optionee's attorneys, accountants, and consultants, and contractors who are involved in due diligence activities or the consummation of the transactions contemplated by this Agreement; or (ix) to the extent required by applicable law. If Optionee fails to exercise the Option as and when required, or if Optionee exercises the Option but fails to close escrow as and when required by this Agreement, at Owner's written request Optionee shall immediately return all Property Documents and copies thereof to Owner.

(c) Owner's Representations and Warranties. Owner's representations and warranties as set forth in **Paragraph 12** below shall be true and correct as of, and shall be deemed remade by Owner, as of the Agreement Date, as of the expiration of the Feasibility Period, and as the Closing Date.

(d) Owner's Performance. Owner shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Owner's part at or prior to the Closing.

(e) Title Policy. Escrow Holder shall be ready willing and able to issue to Optionee the Title Policy at the Closing.

(f) Owner's Deliveries. Owner shall deliver into the Escrow the following documents (collectively, the "**Closing Documents**"): (i) the Grant Deed (in the Escrow Holder's standard form) for recordation and delivery to Optionee at the Closing, (ii) an affidavit as

required by the Foreign Investment in Real Property Tax Act (in the Escrow Holder's standard form) and a form 593-C as required by California law, (iii) escrow instructions in form and substance consistent with the requirements herein, (iv) an Assignment and Bill of Sale in the form of **Exhibit C** attached hereto (the "**Assignment**"), duly executed by Owner, (v) an Assignment and Assumption of Lease in the form attached hereto as **Exhibit D** (the "**Assignment of Lease**"), (vi) a notice letter to the Tenant advising the Tenant of the sale of the Property to Optionee and directing Tenant to pay to Optionee all rent and other sums accruing under the Lease for the period after the Closing executed by Owner, (vii) such duly executed owner's affidavits as may be required by the Escrow Holder to issue the Title Policy at Closing, (viii) all prorations, fees and other amounts to be paid by Owner at Closing, provided that in lieu of depositing such amounts in Escrow, such amounts shall be withheld from the Closing Payment delivered to Owner in accordance with Owner's approved closing statement; (ix) such evidence as the Escrow Holder may reasonably require as to the authority of the person or persons executing documents on behalf of Owner; and (x) such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

(g) Estoppel Certificate. On or before November 15, 2010, Owner shall have obtained and delivered to Optionee an estoppel certificate in the form required by the Lease or, if the form is not specified in the Existing Lease, in substantially the form attached to this Agreement as **Exhibit F**, but not including any information or statements not required by the Lease, duly executed by the Tenant (the "**Estoppel Certificate**"). Prior to delivering the Estoppel Certificate to Tenant for review and execution, Owner shall deliver a draft of the Estoppel Certificate to Optionee for review and approval, and Optionee will have five (5) business days after receipt to review the draft Estoppel Certificate and to notify Owner of any requested corrections or additions thereto, provided Optionee shall not have the right to require any additions or changes that are not required by the Lease. The Estoppel Certificate shall be considered satisfactory only if it is executed by the Tenant, is dated no earlier than November 30, 2010, and, in the reasonable opinion of Optionee, does not list any material events of default, describe any material differences in lease information from what is provided by Owner pursuant to this Agreement, or set forth any material adverse matter. Following delivery to Optionee of the executed Estoppel Certificate, if requested by Optionee Owner shall use commercially reasonable efforts to obtain and deliver to Optionee one or more updates to the Estoppel Certificate as Optionee may request, duly executed by Tenant.

(h) Legal Parcel. The Land shall consist of one or more legal parcels as of the Closing. Notwithstanding anything in this Agreement to the contrary, the condition precedent set forth in this subparagraph may not be waived.

(i) Environmental Condition. There shall exist no environmental matter having a material adverse impact on the Property that was known to Owner on the Agreement Date and was not disclosed in writing to Optionee within three (3) days after the Execution Date as provided in **Paragraph 10(b)** and **Schedule 12(d)** of this Agreement.

(j) Leases. Other than the Lease, there shall exist no other leases, tenancies, or occupancy agreements affecting the Real Property or any part of the Real Property.

(k) Material Conditions. Each of the above conditions is for the sole benefit of Optionee and each of such conditions is deemed to be material to and of the essence of this Agreement.

11. Conditions of Owner's Performance. All of Owner's obligations hereunder are expressly conditioned on the satisfaction at or before the Closing, or at or before such earlier time as may be expressly stated below, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Owner, at Owner's option):

(a) Optionee's Representations and Warranties. Optionee's representations and warranties as set forth in **Paragraph 13** below shall have been true and correct as of the Execution Date and the Closing Date.

(b) Optionee's Performance. Optionee shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Optionee's part at or prior to the Closing.

(c) Optionee's Deliveries. Optionee shall have delivered to Escrow Holder all instruments and documents required on Optionee's part to effectuate this Agreement and the transactions contemplated hereby, including without limitation, escrow instructions in form and substance consistent with the requirements herein, a closing statement consistent with the terms of this Agreement, and a certificate of acceptance of the Grant Deed as required by Section 27281 of the California Government Code, and Optionee shall have timely deposited all funds to be deposited into the Escrow pursuant hereto, including without limitation the Closing Payment.

12. Owner's Representations, Warranties and Covenants. Owner hereby represents, warrants and covenants to Optionee and its assigns, and makes the representations, warranties and covenants set forth in this **Paragraph 12** for the benefit of Optionee and its successors and assigns. Owner shall notify Optionee in writing immediately if Owner becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Owner after the Agreement Date. Owner shall indemnify, protect, defend and hold harmless Optionee from and against all Claims arising from or relating to any misrepresentation made by Owner in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Owner is the sole owner of fee title to the Real Property and has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement by Owner shall have been duly authorized. No approvals, authorizations or consents of any public body or of any person other than Owner's shareholders, partners or members, as applicable, are necessary in connection herewith. This Agreement and all other agreements, documents and instruments to be executed in connection herewith have been effectively authorized by all necessary action, corporate, partnership or otherwise, including, without limitation, authorizations of Owner's Board of Directors, shareholders or members, as applicable, which authorizations remain in full force and effect, have been duly executed and delivered by Owner, and no other corporate, partnership or

other proceedings on the part of Owner are required to authorize this Agreement and the transactions contemplated hereby.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Owner do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon the Property or any other assets of Owner by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Owner is a party or which is or purports to be binding upon Owner or the Property or which otherwise affects Owner or the Property, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Owner in accordance with its terms.

(c) Documents. Owner has provided or will provide Optionee pursuant to **Paragraph 10(b)** with copies of all Property Documents in Owner's possession. All Property Documents delivered or to be delivered to Optionee by Owner and its agents are complete originals or true and correct copies thereof. If Optionee elects not to purchase the Property, Optionee will return to Owner all Property Documents previously delivered to Optionee by Owner. Owner shall deliver as and when required all notices relating to the Property to the extent required by applicable laws or any covenants, conditions or restrictions affecting the Property.

(d) Hazardous Materials. Owner and the Owner Related Parties have not spilled, discharged or released any Hazardous Materials onto, under or about the Property. To Owner's knowledge without inquiry, there are no above ground or underground storage tanks, barrels, drums, pits, wells, lagoons or other containers (collectively, "**Tanks**"), other than those owned or used by the Tenant under the Lease, or any Hazardous Materials, other than as used by the Tenant under the Lease, on, in, about or under or within 2,000 feet of the Real Property, including any ground water beneath and surface water thereon (whether by virtue of any storage, release or disposal on, in or under the Real Property or migration to the Real Property), except for the specific Tanks and/or Hazardous Materials and quantities thereof as are disclosed by Owner on **Schedule 12(d)** attached hereto and incorporated herein (the "**Disclosed Hazardous Materials**"). As used herein, the term "**Hazardous Materials**" shall mean any substance, material, waste, chemical, mixture or compound which: (i) is flammable, ignitable, radioactive, hazardous, toxic, corrosive or reactive, and which is regulated under law or by a public entity, (ii) is a "Hazardous Substance" as defined or listed under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, or any regulations promulgated thereunder, (iii) is crude oil, petroleum, natural gas, or distillates or fractions thereof, and/or (iv) damages or threatens to damage health, safety, or the environment, or is required by any law or public entity to be remediated, including remediation which such law or public entity requires in order for property to be put to any lawful purpose. The provisions of this **Paragraph 12(d)** shall survive the Closing.

(e) Compliance. Except as specifically set forth in **Schedule 12(d)** of this Agreement, to the best of Owner's knowledge without inquiry the Real Property is not in violation of any federal, state or local law, statute, regulation or ordinance, and there are no special assessments, condemnation actions or other legal actions or proceedings pending or threatened against the Real Property or any part thereof.

(f) Bankruptcy. Owner is not the subject of a voluntary or involuntary bankruptcy, reorganization, or insolvency petition.

(g) Work Contracts. At the Closing, there will be no outstanding amounts owing by Owner under any Contracts for any improvements to the Real Property. Owner shall cause to be discharged all mechanics' and materialmen's liens arising from any labor and materials furnished prior to the Closing, and shall have eliminated from title all exceptions, claims, and defects other than the Permitted Exceptions. No person or entity holds any rights to purchase or otherwise acquire all or any portion of the Property (or interest therein), including pursuant to any Option Agreement, option, right of first offer, right of first refusal, gift or other agreement.

(h) Other Contracts. **Exhibit E** to this Agreement sets forth a complete and accurate list of Contracts (other than insurance policies and the Lease) affecting the Property, and neither Owner nor any provider under any of the Contracts has asserted any breach or default thereunder. Owner has not received any written notice of a Owner default and Owner has no knowledge of any existing Owner defaults under the Contracts. Owner has not received any written notice of a default by another party, and Owner has no knowledge of any existing other party default under the Contracts. Prior to Closing, Owner shall not amend any existing Contract or enter into any new Contract affecting the Property that will survive the Closing, or that would otherwise affect the use, operation or enjoyment of the Property after Closing, without Optionee's prior written approval.

(i) No Commitments. Owner has not made any commitments to any governmental authority, to any adjoining property owner, or to any other organization, group, individual or entity relating to the Real Property which would impose any obligations upon Optionee to make any contributions of money or land or to install or maintain any improvements.

(j) Leases. Other than the Lease, Owner has not executed and is not aware of any other leases, tenancies, subleases, or occupancy agreements affecting the Real Property or any part of the Real Property. Owner is the current landlord under the Lease. Owner is not in default under the Lease and to Owner's knowledge no default on the part of Tenant exists (and no event has occurred that with the passage of time or the giving of notice, or both, would be a default) under the Lease. Owner has not assigned or otherwise transferred any interest in the Lease to any other party and Owner has not consented to any sublease or assignment of the Lease by the Tenant. As of the Agreement Date and as of the Closing, there shall be no outstanding leasing costs, including without limitation commissions, free rent, tenant improvement costs or allowances, or other tenant inducements or concessions owing by the landlord under the Lease.

(k) Rights of Third Parties. Owner has not alienated, encumbered, transferred, leased, assigned or otherwise conveyed its interest in the Property or any portion thereof except

as set forth in the Title Report, and shall not enter into any such agreement that will not be removed prior to the Closing. There are no claims pending or threatened by any third party against Owner or any Owner Party relating to the Property.

(l) Binding Agreement. This Agreement constitutes the legal, valid and binding obligation of Owner and is enforceable in accordance with its terms against Owner subject only to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

(m) Support of Project. As a material inducement to Optionee's execution of and performance under this Agreement, for so long as this Agreement remains in effect and is not terminated prior to the Closing, Owner shall not challenge, oppose or impede, either directly or indirectly, the Project, and shall use commercially reasonable efforts to cause the Owner's Parties not to challenge, oppose or impede the Project.

(n) Other. Neither this Agreement, nor any of the exhibits or schedules hereto, nor any document, certificate or statement referred to herein or furnished to Optionee in connection with the transaction contemplated herein (whether delivered prior to, simultaneously with, or subsequent to the execution of this Agreement) contains any untrue statement of material fact or, omits to state a material fact in any way concerning the Property or otherwise affecting or concerning the transaction contemplated hereby.

13. Optionee's Representations and Warranties. Optionee hereby makes the representations and warranties set forth in this **Paragraph 13** for the benefit of Owner and its successors and assigns. Optionee shall notify Owner in writing immediately if Optionee becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Optionee after the Agreement Date. Optionee shall indemnify, protect, defend and hold harmless Owner from and against all Claims arising from or relating to any misrepresentation made by Optionee in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Optionee has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement by Optionee has been duly authorized.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Optionee do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the property or assets of Optionee by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Optionee is a party or which is or purports to be binding upon Optionee or which otherwise affects Optionee, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Optionee in accordance with its terms.

(c) Litigation. There are no claims, actions, suits or proceedings continuing, pending or threatened, which would materially adversely affect Optionee or this transaction.

(d) As-Is Purchase; Release of Certain Claims. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, OPTIONEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT OWNER IS SELLING AND OPTIONEE IS PURCHASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS, NO PATENT OR LATENT DEFECTS ON THE PROPERTY WHETHER KNOWN NOW OR DISCOVERED LATER SHALL AFFECT THIS AGREEMENT, AND THAT OPTIONEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM OWNER, ITS AGENTS, OR ANY BROKERS AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, utility systems, facilities and appliances, the square footage within the improvements on the Property and within each tenant space therein, (ii) the quality, nature, adequacy, and physical condition of soils, geology, drainage, and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other land use status of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring properties, (viii) the quality of any labor and materials used in any improvements on the Property, or (ix) the economics of the operation of the Property.

Without limiting the above, but subject to the provisions below relating to Reserved Claims, effective on the Closing Optionee hereby waives its right to recover from, and forever releases and discharges, Owner and Owner's members, shareholders, partners, beneficiaries, successors and assigns, and their respective heirs and personal representatives (collectively, the "**Owner Related Parties**"), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the physical condition of the Property including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and Hazardous Materials on, under or about the Property or on, under or about nearby properties, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater of the Property and nearby properties, (iii) claims of any occupants of the Property against Owner or any Owner Related Party, (iv) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (v) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (vi) the zoning or other legal status of the Property or any other public or private restrictions on use of the

Property, (vii) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (viii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring property, (ix) the quality of any labor and materials used in any improvements on the Property, (x) the condition of title to the Property, (xi) economics of the operation of the Property and (xii) any law or regulation applicable to the use or operation of the Property, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.) and any other federal, state or local law.

In connection with the matters referred to above in this **Paragraph 13(d)**, Optionee on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Optionee, its agents, successors and assigns, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters referred to above. Section 1542 provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

The preceding provisions of this **Paragraph 13(d)** shall not constitute a waiver of any conditions precedent to Optionee's obligations under this Agreement. In addition, notwithstanding anything in this **Paragraph 13(d)** or any other provision herein to the contrary, Optionee reserves all rights and claims that it may have under this Agreement or applicable law with respect to the following (collectively, "**Reserved Claims**"): (a) fraud, willful misconduct, or the criminal acts of Owner and its members, employees, agents, consultants and contractors (collectively, "**Owner's Parties**"); (b) claims based upon acts or omissions of Owner which occur after the Closing; (c) any claims relating to dealings between Optionee and any Owner Party on transactions or matters relating to other properties; (d) any claims for breach of the representations, warranties, covenants and other obligations expressly set forth in this Agreement; or (e) claims for breach of the representations, warranties, covenants and other obligations set forth in the Closing Documents.

14. **Brokers.** Owner shall pay a brokerage commission to Cassidy Turley/BT Commercial (the "**Broker**") pursuant to a separate agreement between Owner and the Broker. Except for the Broker referred to in this **Paragraph 14**, each party represents to the other that it

has not dealt with any other broker, agent, or finder for which a commission or fee is payable in connection with the transaction contemplated by this Agreement. Each party shall indemnify, defend, protect and hold harmless the other from any Claims arising from such party's breach of its representation contained in this paragraph.

15. Owner's Operating Covenants.

(a) Contracts. Prior to the Closing, Owner shall terminate all Contracts, except for the Contracts that Owner agrees to assign to Optionee and that Optionee agrees to assume. Optionee shall notify Owner of those Contracts, if any, that Optionee wishes to assume within thirty (30) days after receipt of such Contracts. If Optionee fails to notify Owner of its election to assume any of the Contracts within such thirty (30) day period, Optionee shall be deemed to have elected not to assume any of the Contracts. Those Contracts that Optionee expressly elects to assume, if any, shall be identified in an exhibit to the Assignment and assigned to and assumed by Optionee pursuant to the Assignment.

(b) Leases. From and after the Agreement Date, Owner shall not execute any new leases or modify or amend the Lease except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion. Owner shall not grant any concession, rebate, allowance or free rent with respect to the Lease, or consent to any sublease, termination, or lease surrender proposed by Tenant, except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion.

(c) Other Operating Covenants. From and after the Agreement Date, Owner shall not encumber the Property with any liens, encumbrances or other instruments creating a cloud on title or securing a monetary obligation that will survive the Closing. Owner shall maintain the Real Property in substantially the same condition as it exists as of the Agreement Date. Owner shall timely discharge, prior to the Closing, any and all obligations relating to work performed on or conducted at or materials delivered to the Real Property from time to time by Owner, or at Owner's direction or on its behalf, in order to prevent the filing of any claim or mechanic's lien with respect to such work or materials, and shall indemnify and hold Optionee harmless from any Claims or liens filed or otherwise claimed, in connection with any work, labor and/or materials performed on or furnished by, through or under Owner prior to the Closing. Until the Closing, Owner shall keep in full force and effect all existing insurance policies affecting the Real Property.

16. Assignment. Optionee may assign this Agreement and its rights and obligations hereunder by delivery to Owner of written notice of such assignment, provided that such assignee expressly assumes all of the obligations and liabilities of Optionee under this Agreement arising or accruing after the date of such assignment. If Optionee assigns this Agreement, then the closing documents to be delivered by Optionee and Owner shall be modified so that the assignee's name is substituted in lieu of the name of Optionee. Subject to the preceding provisions of this **Paragraph 16**, this Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties to this Agreement.

17. Memorandum of Agreement. At Optionee's request Owner shall execute and acknowledge a Memorandum of this Agreement substantially in the form attached hereto as

Exhibit B (the “**Memorandum**”), and Optionee shall be entitled to record same in the official land records of the County. If Optionee fails to exercise the Option within the Option Term, or if this Agreement otherwise terminates for reasons other than Owner’s default, Optionee shall execute a quitclaim deed sufficient to release the Memorandum from the Property.

18. Entire Agreement; Amendments. This Agreement and the exhibits hereto set forth all of the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an agreement in writing, duly executed by or on behalf of the party or parties against whom enforcement of any waiver, change, modification, consent or discharge is sought.

19. Attorneys’ Fees. If a legal action, suit, or proceeding is brought by Optionee or Owner to enforce or interpret any of the provisions of this Agreement, or otherwise with regard to the Escrow or the Property, the prevailing party shall be entitled to recover all costs and reasonable attorneys’ fees incurred in connection therewith. “**Prevailing party**” within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other party is in breach or default, if such action is dismissed upon the other party’s payment of the sums allegedly due or performance of the covenant allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action whether or not such action proceeds to a final judgment or determination.

20. Optionee’s Remedies. Notwithstanding anything to the contrary contained in this Agreement, if the Closing does not occur as the result of the Owner’s default of its obligation to deliver title to the Property to Optionee in the manner required hereby or Owner otherwise breaches its obligations to consummate the Closing in accordance with this Agreement, Optionee shall be entitled to pursue all available legal and equitable remedies, including without limitation (a) recovery of all Deposits made by Optionee plus claims for additional damages attributable to such breach or default by Owner (but only to the extent such claims for additional damages do not exceed One Hundred Thousand Dollars (\$100,000)) and (b) specific performance of this Agreement. The foregoing limitations on damages shall not apply to any claims arising from fraud, willful misconduct, or criminal conduct of Owner and shall not limit Optionee’s recovery of attorneys’ fees or other amounts pursuant to **Paragraph 19**.

21. Cure Period. Notwithstanding the provisions of **Paragraph 20** or any other provision of this Agreement, no default by either party hereto shall result in a termination or limitation of any rights of such party hereunder unless and until the other party shall have notified the defaulting party in writing of such default, and the defaulting party shall have failed to cure such default within ten (10) days after the receipt of such written notice; provided that, where a non-monetary default cannot reasonably be cured within such ten (10) day period, the defaulting party shall not be in default if defaulting party commences such cure within the ten (10) day period and thereafter diligently prosecutes such cure to completion. In addition, if Optionee fails to either exercise the Option pursuant to **Paragraph 2(c)** or to extend the Option Term by exercising an Extension Option pursuant to **Paragraph 2(b)**, then notwithstanding any provision of this Agreement to the contrary, the Option shall not be deemed to have lapsed or terminated unless Optionee fails to either (a) exercise the Option pursuant to **Paragraph 2(c)** or

(b) to exercise an Extension Option and to deposit the applicable Additional Deposit required by **Paragraph 2(b)** within ten (10) days after Optionee receives written notice from Owner of either such failure. Notwithstanding the above, the failure by Optionee to consummate the Closing (for reasons other than Owner's default or the failure of a condition to closing specified in **Paragraph 10**) on or before the Closing Date shall result in immediate termination and no such notice shall be required or cure period provided.

22. Entire Agreement. This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and no representation, inducement, promise, or agreement, oral or written, between the parties not embodied in this Agreement, will be of any effect. This Agreement supersedes and cancels any and all prior or contemporaneous negotiations, arrangements, representations and understanding, oral or written, if any, between the parties, relating to the subject matter of this Agreement.

23. Risk of Loss. Until the Closing, Owner shall assume all risk of loss with respect to the Real Property. If after the Agreement Date and prior to the Closing all or any part of the Real Property is destroyed by fire, earthquake or other casualty, Optionee shall within ten (10) business days after receipt of written notice from Owner of such casualty (but in all events at least one (1) day before the Closing Date) irrevocably elect either (a) to terminate this Agreement or (b) to keep this Agreement in effect, in which event if the Closing occurs Owner shall pay or assign to Optionee all insurance proceeds paid or payable to Owner (to the extent not previously expended in an effort to restore the Real Property) as a consequence of such casualty, and the Purchase Price shall be reduced by the amount of any deductible or other uninsured loss. If Optionee fails to timely elect either the option in clause (a) or in clause (b) above, then Optionee shall be deemed to have irrevocably elected the option in clause (b) above. If this Agreement is terminated pursuant to this paragraph, then (i) if the termination relates to a casualty occurring during the Initial Option Term, all the Deposits and interest earned thereon while in Escrow shall be returned to Optionee, (ii) if the termination relates to a casualty occurring after the expiration of the Initial Option Term, all the Deposits previously released to Owner shall be retained by Owner, and (iii) neither party shall have any further rights, duties, obligations or liabilities, at law or in equity, arising out of or relating to this Agreement except for those that specifically survive termination of this Agreement pursuant to other paragraphs hereof. Notwithstanding the above, if the damage to the Real Property does not exceed Two Hundred Thousand Dollars (\$200,000), then Optionee shall not have the right to terminate this Agreement pursuant to clause (a) above and shall be deemed to have irrevocably elected to keep this Agreement in effect pursuant to clause (b) above.

24. Miscellaneous.

(a) Time of the Essence. Time is of the essence of this Agreement.

(b) Dates. Any time period to be computed pursuant to this Agreement shall be computed by excluding the first day and including the last day. If the last day falls on a Saturday, Sunday or holiday, the last day shall be extended until the next business day that the Escrow Holder is open for business. As used herein, the term "**days**" means calendar days and

the term “**business days**” means all calendar days other than Saturdays, Sundays, or holidays observed by Escrow Holder.

(c) Governing Law. This Agreement shall be governed by the law of the State of California. Owner and Optionee agree that all suits or actions of any kind brought to interpret or enforce the terms of, or otherwise arising out of or relating to this Agreement shall be filed and litigated solely in the state court in the county in which the Real Property is located or if such suit or action cannot be filed and or litigated in state court, then in the federal court located closest to the Real Property. Each party hereby consents to the personal and subject matter jurisdiction of said courts. Owner and Optionee agree that San Mateo County shall for all purposes be considered the place in which this Agreement was entered into, notwithstanding the order in which, or the location or locations at which, it may have been executed or delivered.

(d) Notices. All notices or demands which either party is required or desires to give to the other shall be given in writing by certified mail, return receipt requested with the appropriate postage paid, by personal delivery, by facsimile (provided receipt of a facsimile transmission is confirmed telephonically or otherwise) or by private overnight courier service to the address or facsimile number set forth below for the respective party, or such other address or facsimile number as either party may designate by written notice to the other. All such notices or demands shall be effective as of actual receipt or refusal of delivery. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day. Notwithstanding the foregoing, if Optionee elects to exercise an Extension Option pursuant to **Paragraph 2(b)**, Optionee may elect to give notice of such election to Escrow Holder and Owner by email so long as Optionee makes the required Additional Deposit as and when required by **Paragraph 2(b)**

To Owner:	Kona Ventures, LLC 1350 Bayshore Highway, Suite 900 Burlingame, California 94101 Fax: (650) 347-4307 Attn: Marshall Hydorn
With copies to:	Kenneth Horowitz, Esq. 951 Mariner's Island Drive, Suite 240 San Mateo, California 94404 Fax: (650) 378-7681

To Optionee: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
Attn: City Manager

With copies to: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
Attn: City Attorney

And to: Heffernan Seubert & French LLP
1075 Curtis Street
Menlo Park CA 94025
Fax: (650) 322-2976
Attn: Daniel K. Seubert

(e) Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

(f) No Third-Party Beneficiaries. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Owner and Optionee only and are not for the benefit of any third party; and, accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

(g) No Fiduciary Relationships. Owner is not the agent or representative of Optionee and Optionee is not the agent or representative of Owner, and nothing in this Agreement will be construed to make Optionee liable to anyone for goods delivered or services performed at the Real Property or for debts or claims accruing against Owner. Nothing in this Agreement will be construed to create any privity of contract or other relationship between Optionee and anyone supplying labor or materials to the Real Property. Nothing in this Agreement, nor the acts of the parties, will be construed to create a partnership or joint venture between Owner and Optionee.

(h) Further Assurances. Each party shall execute, acknowledge, and deliver, after the Agreement Date, including at or after the Closing, such further assurances, instruments and documents as the other may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

(i) Counterparts. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) Survival. Unless otherwise expressly stated in this Agreement, the warranties, representations and covenants of Owner and Optionee shall survive the Closing and delivery of the Grant Deed.

(k) Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

(l) Construction. The paragraph and section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The paragraph headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Agreement. The singular form will include plural, and vice versa. Each term, condition or provision hereof has been freely negotiated and shall be equally binding upon Owner and Optionee and no such term, condition or provision shall be construed against either party hereto solely because such term, condition or provision was initially drafted or prepared by such party. Unless otherwise indicated, all references to paragraphs or sections are to this Agreement. All exhibits, schedules, addenda and attachments referred to in this Agreement are attached to it and incorporated in it by this reference. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates.

(m) Amendments. No amendment to this Agreement will be binding on any of the parties to this Agreement unless the amendment is in writing and executed by all parties. No acts or omissions of any employee or agent of the parties or any broker, if any, shall alter, change or modify any of the provisions of this Agreement.

(n) Non-Liability of Officials. No officer, official, member, employee, agent, or representatives of Optionee shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such official, member, employee, agent, or representative.

(o) Owner's Tax Deferred Exchange. Owner may desire to effect a tax-deferred exchange with respect to its disposition of the Property ("**Owner's Exchange**") pursuant to Section 1031 of the Internal Revenue Code. Owner's Exchange will be structured by Owner at its sole cost and expense and Optionee will have no obligation to acquire or enter into the chain of title to any property other than the Property. Optionee's sole obligation in connection with Owner's Exchange shall be to review and execute such documentation as is reasonably necessary in order to effectuate Owner's Exchange in accordance with the foregoing

and the applicable rules governing such exchanges. Optionee's cooperation with Owner's Exchange shall not affect or diminish Optionee's rights under this Agreement, delay the Closing or be construed as Optionee's warranty that Owner's Exchange in fact complies with Section 1031 of the Internal Revenue Code. Optionee shall have the right to review and reasonably approve any documents to be executed by Optionee in connection with Owner's Exchange. Acceptance of title to the Property from Owner's designated intermediary shall not modify Owner's representations, warranties and covenants to Optionee under this Agreement or the survival thereof pursuant to this Agreement. The Grant Deed and all closing documents shall run directly between Owner and Optionee. Owner is relying solely upon the advice and counsel of professionals of Owner's choice in structuring, executing and consummating Owner's Exchange.

(p) Advice of Advisors. Each party to this Agreement acknowledges and agrees that it has obtained and relied upon its own legal counsel and other advisors to evaluate the tax, accounting and legal consequences of entering into this Agreement and consummating the transactions contemplated hereby, and, except as set forth in this Agreement, neither party is relying on any representations or warranties of the other party to this Agreement.

(q) Disclosure. Ben Paul, Marshall Hydorn, and Mark Melbye are licensed real estate brokers and are members of Owner.

25. Owner's Waivers.

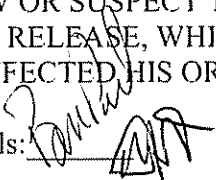
(a) Waiver of Relocation Assistance. Optionee's payment to Owner of the Purchase Price shall constitute full and complete satisfaction of any obligation Optionee may have for providing relocation assistance to Owner and paying its relocation costs, if any, required to comply with all applicable federal, state and local laws, rules and regulations arising out of, based upon, or relating to, relocation assistance or benefits owing under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq. or under any other federal, state or local relocation statutes, regulations or guidelines, including but not limited to, any such regulations or guidelines of the City of Redwood City or the County of San Mateo (collectively, "**Relocation Benefits**"). Accordingly, Owner, for itself and for its agents, successors, assigns, fully releases, acquits and discharges Optionee and its officers, officials, members, directors, council members, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (collectively, the "**Released Parties**"), from all Claims that Owner, or any of them, has or may have against the Released Parties for all Relocation Benefits arising out of or related to Optionee's acquisition of the Property or the displacement of Owner from the Property.

(b) Waiver of Property Rights and Interests. Upon receipt by Owner of the Purchase Price, Owner for itself and for its agents, successors and assigns fully releases, acquits and discharges Optionee and the Released Parties from all Claims that Owner, its agents, successors and assigns has or may have against the Released Parties arising out of or related to Optionee's acquisition of the Property or the displacement of Owner from the Property including, without limitation, all of Owner's property rights and interests in the Property, including but not

limited to (i) all leasehold interests and rights of tenancy or occupancy, (ii) all improvements, including improvements pertaining to the realty, furniture, fixture, and equipment, (iii) business goodwill and lost income (past or future) relating to the Property, (iv) Owner's failure to locate a suitable replacement location, (v) lost rental income or sublease or license income, (vi) severance damages and pre-condemnation damages, if any, (vii) economic or consequential damages, (viii) professional consultant fees, attorney's fees and costs, expert witness fees and costs, interest, and (ix) all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Owner, its agents, successors and assigns by reason of Optionee's acquisition of the Property or Owner's displacement from the Property. Notwithstanding the above, Optionee and the Released Parties shall not be released from any obligations to indemnify or hold harmless Owner or Owner's Parties to the extent otherwise provided in this Agreement.

(c) Waiver of Civil Code Section 1542. Owner, on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Owner and its agents, successors and assigns, and any business, enterprise, or venture in which they are involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters Released in **Paragraph 25(a)** or **Paragraph 25(b)** above. Section 1542 provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Owner's Initials: 

(d) Indemnification. Owner acknowledges that Optionee is relying on Owner's representation and warranty that other than the Lease, Owner has not executed and is unaware of any other leases, tenancies, subleases, or occupancy agreements affecting the Property ("**Owner's Occupancy Representation**"). In the event that Owner's Occupancy Representation is untrue, then without limiting Optionee's recourse for Owner's breach of Owner's Occupancy Representation, if such other tenants or occupants shall be entitled to Relocation Benefits, Owner shall have the sole and exclusive responsibility for providing all such Relocation Benefits and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations and satisfying all Claims of such parties. Owner hereby agrees to indemnify, defend, protect and hold the Released Parties harmless from and against any Claims asserted against or sustained by the Released Parties arising from its breach of the Owner's Occupancy Representation, including without limitation claims for Relocation Benefits and inverse condemnation.

(e) Tenant Relocation Assistance. Notwithstanding the preceding provisions of this **Paragraph 25** to the contrary, provided the Closing occurs, Optionee shall assume the obligations to provide Relocation Benefits to the Tenant. Nothing in this **Paragraph 25(e)** or

elsewhere in the Agreement shall preclude Optionee from entering into agreements or other arrangements, but only after the Closing, with the Tenant to provide alternative compensation or benefits to the Tenant in lieu of providing such Relocation Benefits to the extent permitted by applicable law.

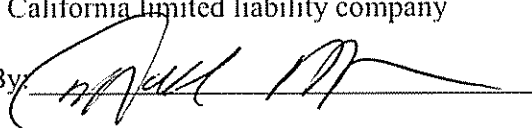
26. Offer and Acceptance. Owner has executed and delivered this Agreement as of the Agreement Date. Owner's execution and delivery of this Agreement to Optionee constitutes an offer to Optionee on the terms and conditions set forth in this Agreement (the "**Offer**"). The Offer may be accepted only (a) following approval of the transactions contemplated by this Agreement by the City Council of The City of Redwood City and (b) by Optionee's execution of this Agreement in the signature block set forth below and the delivery of this Agreement to Owner. If Optionee does not accept the Offer by executing this Agreement and delivering it to Owner on or before October 20, 2010, Owner shall have the right to revoke the Offer by written notice to Optionee.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the dates set forth below.

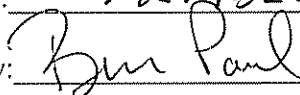
"OWNER"

KONA VENTURES, LLC,
a California limited liability company

By: 

Name: MARSHALL H. HOOORN

Its: MEMBER

By: 

Name: Ben Paul

Its: Member

Dated: 10-6-'10

"OPTIONEE"

CITY OF REDWOOD CITY,
a charter city and municipal corporation of the State of California

By: 

Name: Peter C. Ingram

Its: City Manager

Dated: October 12, 2010

ATTEST:


Silvia Vonderlinden, City Clerk

ACCEPTANCE BY ESCROW HOLDER

First American Title Insurance Company hereby acknowledges that it has received a fully executed counterpart of the foregoing Real Estate Option Agreement ("**Contract**") and agrees to act as Escrow Holder or agent under the Contract and to be bound by and perform the terms thereof as such terms apply to Escrow Holder.

Dated: 10-13-2010

First American Title Insurance Company

By: 

Name: KAREN MATSUNAGA

Its: SENIOR COMMERCIAL ESCROW AGENT 

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

Parcel I:

Lot 2, as shown on that certain map entitled "Woodhouse Industrial Park, Redwood City, California", filed in the Office of the County Recorder of San Mateo County, State of California, on June 17, 1966 in Book 65 of Maps at Page(s) 3.

Parcel II:

A non-exclusive easement appurtenant to Parcel I above, for the construction, maintenance, use and operation of a railroad tract in, over and upon strip of land 20 feet wide, the center line of which strip is specifically described follows:

Beginning at a point on the Northerly boundary line of lands described as Parcel 2 in that certain Deed to Arthur N. Blomquist and Elsie U. Blomquist, his wife from Blomquist Oil Service, Inc., dated February 1, 1961 and recorded February 17, 1961 in Book 3936 of Official Records at Page 449 (Filed No. 32424-T), Records of San Mateo County, California, said point being distant North 55° 13' 12" West 72.54 feet from the point of intersection of the courses, North 55° 13' 12" West 411.22 feet and North 88° 53' 28" West 936.33 feet, as recited in the last said Deed; thence from said point of beginning, South 34° 24' 17" West 7.58 feet to a point at the beginning of a tangent curve to the left; thence along the arc of last said curve, having a radius of 383.06 feet, through a central angle of 3° 21' 23", an arc length of 22.44 feet to a point on the Northeasterly line of the lands of Douglass and Woodhouse, as said lands are described in that certain Deed recorded October 20, 1959 in Book 3691 of Official Records at Page 496, Records of San Mateo County, California, said point being distant North 55° 13' 21" West 3.55 feet, along last said line, from the most Easterly corner of last said lands.

Parcel III:

A non-exclusive easement appurtenant to Parcel I above, for the construction, maintenance, use and operation of a railroad track in, over and upon a strip of land 20 feet wide, the center line of which strip is specifically described as follows:

Beginning at a point on the Northerly boundary line of lands described as Parcel 2 in that certain Deed to Arthur N. Blomquist and Elsie U. Blomquist, his wife from Blomquist Oil Service, Inc., dated February 1, 1961 and recorded February 17, 1961 in Book 3936 of Official Records at Page 449 (Filed No. 32424-T), Records of San Mateo County, California, said point being distant North 55° 13' 12" West 72.54 feet from the point of intersection of the courses North 55° 13' 12" West 411.22 feet and North 88° 53' 28" West 936.33 feet, as recited in the last said Deed; thence from said point of beginning of a tangent curve to the left; thence along the arc of last said curve, having a radius of 383.06 feet, through a central angle of 13° 48' 18" an arc length of 92.30 feet; thence North 20° 35' 59" East 87.39 feet to a point at the beginning of a tangent curve to the right; thence along the arc of last said curve, having a radius of 383.06 feet, through a central angle of 14° 45' 30", an arc length of 98.67 feet; thence North 35° 21' 29" East 89.23 feet to a point at the beginning of a tangent curve to the right; thence along the arc of last said curve, having a radius of 440.00 feet, through a central angle of 42° 52' 30" an arc length of 338.58 feet; thence 78° 13' 59" East 520.22 feet to a point at the beginning of a tangent curve to the

left; thence along the arc of last said curve, having a radius of 800 feet, through a central angle $2^{\circ} 38' 55''$, an arc length of 36.98 feet to a point on the Easterly line of said lands of Blomquist Oil Service and the Easterly terminus of the herein described center line.

Parcel IV:

A non-exclusive easement appurtenant to Parcel I above for the construction, maintenance, use and operation of a railroad tract, in, over and upon a strip of land 20 feet wide, and lying 10 feet on each side of the following described center line, and being a portion of that certain 14.517 acre parcel conveyed to the Bayshore Development Company, a California Corporation, by Deed recorded December 30, 1955 in Book 2943 of Official Records at Page 483, Records of San Mateo County, California, said strip being more particularly described as follows:

Beginning at a point on the Easterly line of that certain 12.266 acre parcel described in the Deed to Blomquist Oil Service, recorded April 28, 1949 in Book 1654 of Official Records at Page 705, Records of San Mateo County, California, distant thereon North $0^{\circ} 03' 30''$ East 1917.47 feet from the Southeasterly corner of said Parcel; thence North $80^{\circ} 36' 30''$ East 63.02 feet; thence along the arc of a curve to the left, on a radius of 382.252 feet, through a central angle of $19^{\circ} 00'$, a distance of 126.76 feet; thence North $61^{\circ} 31' 30''$ East 52.27 feet to a point on the Northwestern line of the 20 foot easement recorded in Book 3107 of Official Records at Page 256, Records of San Mateo County, California.

Said Easements were created by deed dated July 14, 1966 and recorded July 15, 1966 under File No. 81769-Z, (Book 5190 of Official Records at Page 374), Records of San Mateo County, California.

APN: 052-392-200-3
JPN: 052-039-392-20A

EXHIBIT B
MEMORANDUM OF OPTION AGREEMENT

Recording Requested by and:
When Recorded Return to:

This Space For Recorder's Use Only

MEMORANDUM OF REAL ESTATE OPTION AGREEMENT

By this Memorandum of Real Estate Option Agreement (this "**Memorandum**") dated as of _____, 2010, _____ ("**Owner**"), and **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), acknowledge and agree to the following:

1. Real Estate Option Agreement. Pursuant to the terms of that certain unrecorded Real Estate Option Agreement (the "**Option Agreement**"), by and between Owner and Optionee, dated as of _____, Owner has granted to Optionee the exclusive right and option to purchase that certain real property, consisting of approximately _____ acres, having Assessor Parcel No. _____, located in the City of _____, County of _____, State of California, as more particularly described on **Exhibit A** attached hereto (the "**Property**").

2. Term. The term of the Option Agreement, and any rights or interest of Optionee in and to the Property created hereby, shall begin on the date of this Memorandum, and shall end no later than December 31, 2011, and may end earlier as provided in the Option Agreement.

3. Price and Terms. The price and other terms are set forth in the Option Agreement, all of the terms, covenants and conditions of which are incorporated herein by reference as though set forth fully herein. In the event of any inconsistency between this Memorandum and the Option Agreement, the Option Agreement shall control. All capitalized terms used herein and not otherwise defined herein shall have the same meaning as is set forth in the Purchase Agreement.

4. Effect. Owner and Optionee have executed and recorded this Memorandum for the purpose of imparting notice of the Option Agreement and the respective rights and obligations of Owner and Optionee thereunder. The obligations of Owner and Optionee to be

performed under the Option Agreement and this Memorandum, whether to be performed on the Property or elsewhere and whether such obligations are affirmative or negative in nature, are intended to and shall bind Owner and Optionee and shall bind and inure to the benefit of and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, Owner and Optionee have signed this Memorandum of Option Agreement dated as of the date first set forth above.

OWNER:

_____,
a _____

By: _____

Name: _____

Its: _____

OPTIONEE:

CITY OF REDWOOD CITY, a charter city and
municipal corporation of the State of California

By: _____

Name: _____

Its: _____

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

Exhibit A

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

Parcel I:

Lot 2, as shown on that certain map entitled "Woodhouse Industrial Park, Redwood City, California", filed in the Office of the County Recorder of San Mateo County, State of California, on June 17, 1966 in Book 65 of Maps at Page(s) 3.

Parcel II:

A non-exclusive easement appurtenant to Parcel I above, for the construction, maintenance, use and operation of a railroad tract in, over and upon strip of land 20 feet wide, the center line of which strip is specifically described follows:

Beginning at a point on the Northerly boundary line of lands described as Parcel 2 in that certain Deed to Arthur N. Blomquist and Elsie U. Blomquist, his wife from Blomquist Oil Service, Inc., dated February 1, 1961 and recorded February 17, 1961 in Book 3936 of Official Records at Page 449 (Filed No. 32424-T), Records of San Mateo County, California, said point being distant North 55° 13' 12" West 72.54 feet from the point of intersection of the courses, North 55° 13' 12" West 411.22 feet and North 88° 53' 28" West 936.33 feet, as recited in the last said Deed; thence from said point of beginning, South 34° 24' 17" West 7.58 feet to a point at the beginning of a tangent curve to the left; thence along the arc of last said curve, having a radius of 383.06 feet, through a central angle of 3° 21' 23", an arc length of 22.44 feet to a point on the Northeasterly line of the lands of Douglass and Woodhouse, as said lands are described in that certain Deed recorded October 20, 1959 in Book 3691 of Official Records at Page 496, Records of San Mateo County, California, said point being distant North 55° 13' 21" West 3.55 feet, along last said line, from the most Easterly corner of last said lands.

Parcel III:

A non-exclusive easement appurtenant to Parcel I above, for the construction, maintenance, use and operation of a railroad track in, over and upon a strip of land 20 feet wide, the center line of which strip is specifically described as follows:

Beginning at a point on the Northerly boundary line of lands described as Parcel 2 in that certain Deed to Arthur N. Blomquist and Elsie U. Blomquist, his wife from Blomquist Oil Service, Inc., dated February 1, 1961 and recorded February 17, 1961 in Book 3936 of Official Records at Page 449 (Filed No. 32424-T), Records of San Mateo County, California, said point being distant North 55° 13' 12" West 72.54 feet from the point of intersection of the courses North 55° 13' 12" West 411.22 feet and North 88° 53' 28" West 936.33 feet, as recited in the last said Deed; thence from said point of beginning of a tangent curve to the left; thence along the arc of last said curve, having a radius of 383.06 feet, through a central angle of 13° 48' 18" an arc length of 92.30 feet; thence North 20° 35' 59" East 87.39 feet to a point at the beginning of a tangent curve to the right; thence along the arc of last said curve, having a radius of 383.06 feet, through a central angle of 14° 45' 30", an arc length of 98.67 feet; thence North 35° 21' 29" East 89.23 feet to a point at the beginning of a tangent curve to the right; thence along the arc of last said curve, having a radius of 440.00 feet, through a central angle of 42° 52' 30" an arc length of 338.58 feet; thence 78° 13' 59" East 520.22 feet to a point at the beginning of a tangent curve to the

left; thence along the arc of last said curve, having a radius of 800 feet, through a central angle $2^{\circ} 38' 55''$, an arc length of 36.98 feet to a point on the Easterly line of said lands of Blomquist Oil Service and the Easterly terminus of the herein described center line.

Parcel IV:

A non-exclusive easement appurtenant to Parcel I above for the construction, maintenance, use and operation of a railroad tract, in, over and upon a strip of land 20 feet wide, and lying 10 feet on each side of the following described center line, and being a portion of that certain 14.517 acre parcel conveyed to the Bayshore Development Company, a California Corporation, by Deed recorded December 30, 1955 in Book 2943 of Official Records at Page 483, Records of San Mateo County, California, said strip being more particularly described as follows:

Beginning at a point on the Easterly line of that certain 12.266 acre parcel described in the Deed to Blomquist Oil Service, recorded April 28, 1949 in Book 1654 of Official Records at Page 705, Records of San Mateo County, California, distant thereon North $0^{\circ} 03' 30''$ East 1917.47 feet from the Southeasterly corner of said Parcel; thence North $80^{\circ} 36' 30''$ East 63.02 feet; thence along the arc of a curve to the left, on a radius of 382.252 feet, through a central angle of $19^{\circ} 00'$, a distance of 126.76 feet; thence North $61^{\circ} 31' 30''$ East 52.27 feet to a point on the Northwesterly line of the 20 foot easement recorded in Book 3107 of Official Records at Page 256, Records of San Mateo County, California.

Said Easements were created by deed dated July 14, 1966 and recorded July 15, 1966 under File No. 81769-Z, (Book 5190 of Official Records at Page 374), Records of San Mateo County, California.

APN: 052-392-200-3
JPN: 052-039-392-20A

EXHIBIT C

ASSIGNMENT AND BILL OF SALE

Reference is hereby made to that certain property located in the City of Redwood City, County of San Mateo, California (the "**Land**"), as described in more detail on Exhibit A of that certain Real Estate Option Agreement between Owner and Optionee (as such parties are defined below) dated as of _____, 2010 (the "**Agreement**"). Capitalized terms used but not defined in this Assignment and Bill of Sale (the "**Assignment**") have the meaning given to such terms in the Agreement.

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned ("**Owner**"), does hereby, give, grant, bargain, sell, transfer, assign, convey and deliver to **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), the following:

(a) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "**Appurtenances**");

(b) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which are collectively referred to as the "**Improvements**" and, together with the Land and the Appurtenances, the "**Real Property**"); and

(c) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and the Improvements, including, without limitation, (i) the right to use any trade name now used in connection with the Real Property, (ii) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (iii) all existing warranties and guaranties (express or implied) relating to the Real Property, (iv) Owner's rights under the contracts and agreements, if any, described on **Schedule ____** hereto (the "**Contracts**"), and (v) the Property Documents all other intangible rights or claims that run with or relate to the Real Property (collectively, the "**Personal Property**").

Optionee hereby assumes all of the obligations of Assignor under the Contracts described on **Schedule ____** attached hereto, to the extent such obligations relate to the period after the Closing under the Agreement (the "**Transfer Date**"), and agrees to be bound by such Contracts from and after the Transfer Date for the remainder of the terms thereof. Optionee's acceptance of this Assignment shall not constitute or be deemed to constitute an assumption by Optionee of any duties, liabilities or obligations of Owner under any other contracts or agreements.

Owner hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Optionee, its nominees, successor and /or assigns, any new or confirmatory instruments and do and perform any other acts which Optionee, its nominees, successors and/or assigns, may request in order to fully transfer possession and control of, and protect the rights of Optionee, its nominees, successors and/or assigns in, all the assets of Owner intended to be transferred and assigned hereby.

IN WITNESS WHEREOF, this Assignment is executed by Owner as of the date set forth above.

OWNER:

OPTIONEE:

SCHEDULE OF ASSUMED CONTRACTS

EXHIBIT D
ASSIGNMENT AND ASSUMPTION OF LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE (this "**Assignment**") is made and entered into as of _____, **20**____ (the "**Agreement Date**") by and between _____ ("**Assignor**"), and _____ ("**Assignee**").

RECITALS:

A. Assignor, as seller, and Assignee, as Optionee, entered into a Real Estate Option Agreement (the "**Option Agreement**") dated as of _____ 2010, with respect to the sale and purchase of certain premises consisting of a single building located on certain real property as more particularly described in **Exhibit A** attached hereto (the "**Property**").

B. In connection with the sale and purchase of the Property, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest in, to and under the lease (the "**Lease**") attached hereto as **Exhibit "B"**.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenant and agreements contained herein and other good and valuable consideration, the parties agree as follows:

1. **Assignment**. Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, and interest in, to and under the Lease as landlord from and after the Transfer Date (as hereinafter defined).

2. **Assumption**. Assignee hereby assumes all of the obligations of Assignor under the Lease to be performed by landlord from and after the Transfer Date, and agrees to be bound by all of the terms, covenants, conditions, and provisions of the Lease from and after the Transfer Date for the remainder of the terms of the Lease.

3. **Transfer Date**. The Transfer Date shall be the date on which the close of escrow occurs under the Option Agreement.

4. **Prorations**. The parties shall prorate the rent, including additional rent, and other sums due under the Lease as of the Transfer Date based on a 365-day year as provided in the Option Agreement.

5. **Governing Law**. This Assignment and the rights and obligations of the parties hereunder shall in all respects be governed by, and interpreted in accordance with, the laws of the State of California. Assignor and Assignee agree that all suits or actions of any kind brought to interpret or enforce the terms of, or otherwise arising out of or relating to this Assignment shall

be filed and litigated solely in the state court in the county in which the Option Agreement is governed is located or if such suit or action cannot be filed and or litigated in state court, then in the federal court located closest to the Real Property as that term is defined in the Option Agreement. Each party hereby consents to the personal and subject matter jurisdiction of said courts. Assignor and Assignee agree that San Mateo County shall for all purposes be considered the place in which this Assignment was entered into, notwithstanding the order in which, or the location or locations at which, it may have been executed or delivered.

6. Attorneys' Fees. If a legal action, suit, or proceeding is brought by Assignor or Assignee to enforce or interpret any of the provisions of this Assignment, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection therewith. "**Prevailing party**" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other party is in breach or default, if such action is dismissed upon the other party's payment of the sums allegedly due or performance of the covenant allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action whether or not such action proceeds to a final judgment or determination.

7. Interpretation. This Assignment shall be interpreted in accordance with the common meaning of its terms and shall not be interpreted strictly for or against either party.

8. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, and when taken together they shall constitute one and the same Assignment. Signatures may be made by facsimile provided the original is promptly mailed to the other party.

9. Successors & Assigns. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the day and year first above written.

"ASSIGNOR"

"ASSIGNEE"

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT E
LIST OF CONTRACTS

EXHIBIT F
ESTOPPEL CERTIFICATE

Date: _____, 20__

To _____ ("Optionee"):

THIS IS TO CERTIFY THAT:

1. The undersigned is the tenant ("Tenant") under that certain resume here dated _____, 20__ ("Lease") by and between _____, a _____, as Landlord, and _____, a _____, as Tenant, covering those certain premises commonly known as _____ Chemical Way in the City of Redwood City, California (the "Property"). A true and complete copy of the Lease is attached hereto.

2. Except as reflected on the documents attached to this Estoppel Certificate, the Lease has not been modified, changed, altered, assigned, supplemented or amended in any respect. Neither Tenant nor to Tenant's actual knowledge, Landlord is in default under the Lease, and the Lease is valid and in full force and effect on the date hereof. The Lease is the only lease or agreement between Tenant and Landlord affecting or relating to the Property. The Lease represents the entire agreement between Landlord and Tenant with respect to the Property.

3. Tenant is not entitled to, and has made no agreement(s) with Landlord or its agents or employees concerning free rent, partial rent, rebate or rental payments, credit or offset or deduction in rent, or any other type of rental concession, including, without limitation, lease support payments or lease buy-outs, except to the extent set forth in the Lease.

4. Tenant has accepted and now occupies the Property, and is and has been open for business since _____, 20____. The Lease Term began _____, 20____. The termination date of the present term of the Lease, excluding unexercised renewals is _____, 20____.

5. Tenant has paid Rent for the Property for the period up to and including _____, 20____, provided that Landlord has accepted from Tenant a promissory note evidencing certain unpaid rent accrued through the period ending _____, 2010. The Base Rent [CHECK LEASE TERMS] (excluding Tenant's Share of Taxes, Insurance and Operating Costs [MODIFY IF OFFICE LEASE], as such terms are defined in the Lease) payable to Landlord presently is \$_____ per month. No Rent has been paid more than one (1) month in advance of its due date. Tenant's security deposit is \$_____ (If none, state "none").

6. No event has occurred and no condition exists which, with the giving of notice or the lapse of time or both, will constitute a default under the Lease. Tenant has no existing defenses or offsets against the enforcement of this Lease by Landlord.

7. All conditions under this Lease to be performed by Landlord have been satisfied. All required contributions or allowances, if any, owed by Landlord under the Lease to Tenant on account of Tenant's tenant improvements have been received by Tenant.

8. No actions, whether voluntary or otherwise, are pending against Tenant or any general partner of Tenant under the bankruptcy laws of the United States or any state thereof.

9. Tenant has not sublet the Property to any sublessee and has not assigned any of its rights under the Lease, except as indicated below (if none, state "none"). No one except Tenant has its employees occupying the Property.

10. The address for notices to be sent to Tenant is as set forth in the Lease.

11. Tenant acknowledges that all the interest of Landlord in and to the Lease is being or will be duly assigned to Optionee or its assignee (assuming Optionee's escrow closes) and that pursuant to the terms thereof all rental payments under the Lease shall continue to be paid to Landlord in accordance with the terms of the Lease unless and until Tenant is notified in writing by Optionee, its assignee, or its successor or assigns.

12. The undersigned is authorized to execute this Tenant Estoppel Certificate on behalf of Tenant.

Tenant acknowledges that Optionee and Landlord are relying on the above-referenced representations concerning the Lease being accurate and complete as of the date hereof with the understanding that Optionee will rely upon such representations in connection with its planned purchase of the Property.

Dated this _____ day of _____, 20__.

TENANT:

_____, a _____

By: _____

Name: _____

Its: _____

Schedule 12(d)

Hazardous Materials Disclosure

Owner discloses to Optionee that the Real Property is the subject of on-going groundwater monitoring under the oversight of the Regional Water Quality Control Board, San Francisco Region. As provided in **Paragraph 10(b)** of this Agreement, within three (3) days after the Execution Date Owner shall provide Optionee with copies of the documentation, if any, in its possession describing the scope of contamination at the Real Property (including the types and quantities of Hazardous Materials).

REAL ESTATE OPTION AGREEMENT

80 CHEMICAL WAY

THIS REAL ESTATE OPTION AGREEMENT (this "**Agreement**") is dated for reference purposes as of October 1, 2010 (the "**Agreement Date**") and is made and entered into by and between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California ("**Optionee**"), and **SCHRADER LEASK DEVELOPMENT, INC.**, a California corporation ("**Owner**").

RECITALS

A. Owner is the owner of certain improved real property along with certain related tangible and intangible personal property.

B. Optionee desires to acquire the exclusive option to purchase such property from Owner on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Optionee and Owner hereby agree as follows:

AGREEMENT

1. Grant of Option to Purchase; Consideration.

(a) Grant of Option. Subject to the terms and conditions of this Agreement, Owner hereby grants to Optionee the exclusive right and option (the "**Option**") to purchase the following:

(i) The real property commonly known as 80 Chemical Way, consisting of approximately 0.73 acres of land, having Assessor Parcel Numbers 052-392-190, located in the City of Redwood City (the "**City**"), County of San Mateo (the "**County**"), California, as more particularly described in Exhibit A attached hereto (the "**Land**");

(ii) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "**Appurtenances**");

(iii) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which

are collectively referred to as the “**Improvements**” and, together with the Land and the Appurtenances, the “**Real Property**”); and

(iv) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and Improvements, including, without limitation, (i) the right to use any trade name now used in connection with the Real Property, (ii) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (iii) all existing warranties and guaranties (express or implied) relating to the Real Property, (iv) Owner's rights under any agreements relating to maintenance and service of the Real Property and other rights relating to the ownership, use and operation of the Real Property (the “**Contracts**”), (v) the Property Documents (as defined in **Paragraph 10(b)**), and (vi) all other intangible rights or claims that run with or relate to the Real Property (collectively, the “**Personal Property**” and, together with the Real Property, the “**Property**”). Notwithstanding the foregoing, Optionee shall not be deemed to have assumed any obligations of Owner under any Contract or other agreement unless Optionee expressly assumes such obligations in writing.

(b) Non-Refundable Option Payment. As good and adequate consideration for the grant of the Option, within one (1) business day following the Opening of Escrow (as defined in **Paragraph 4(a)**), Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with First American Title Company (the “**Escrow Holder**”) at its office at 901 Mariners Island Boulevard, Suite 380, San Mateo, California, 94404 (attention: Karen Matsunaga, telephone (650) 638-9106), a cash sum equal to Two Thousand Dollars (\$2,000) (the “**Option Payment**”). Owner acknowledges that the Option Payment constitutes good, adequate and reasonable consideration for the grant of the Option, taking into account, among other things, the Purchase Price (as defined in **Paragraph 3(a)**) for the Property, the appraised value of the Property, and the length of the Option Term (as defined in **Paragraph 2(a)**). In addition, Owner acknowledges that Optionee will incur additional costs and expenses in evaluating the Property during the Feasibility Period (as defined in **Paragraph 10(a)**) and that Optionee's expenditure of such funds constitutes additional and adequate consideration for the grant of the Option. Following the Opening of Escrow the Option Payment shall not be refundable under any circumstances and shall immediately be released to Owner from Escrow. The Option Payment shall be credited to the Purchase Price.

(c) Refundable Initial Deposit. In addition to the Option Payment, concurrent with the deposit of the Option Payment into Escrow, Optionee shall deposit into Escrow (as defined in **Paragraph 4(a)** hereof) with Escrow Holder a cash sum equal to Forty-Eight Thousand Dollars (\$48,000) (the “**Initial Deposit**”). While in Escrow, the Initial Deposit shall be held in an interest-bearing account by the Escrow Holder for the benefit of Optionee. The Initial Deposit and any interest earned thereon while in the Escrow shall be applicable to the Purchase Price (as defined below). If Optionee provides the Notice to Proceed (as defined in **Paragraph 10(a)** hereof) prior to the expiration of the Feasibility Period, the Initial Deposit shall become non-refundable (except if Owner defaults on its obligations herein or as otherwise expressly provided for herein) and shall remain in Escrow pending the Closing (as defined in **Paragraph 4(c)** hereof) or earlier termination of this Agreement; provided, however, that if Optionee exercises the first Extension Option (as defined in **Paragraph 2(b)**), then the Initial Deposit shall be released from Escrow and paid to Owner concurrently with Optionee's exercise

of such Extension Option. If Optionee does not provide the Notice to Proceed prior to the expiration of the Feasibility Period, Owner and Optionee hereby authorize Escrow Holder to immediately release the Initial Deposit (and all of the interest earned thereon) to Optionee at the expiration of the Feasibility Period without any additional documentation required from the parties. Owner releases Escrow Holder from all liability in connection with the release of the Initial Deposit to Optionee in accordance with the preceding sentence, and following such release of the Initial Deposit, neither party shall have any further rights or obligations hereunder (other than those arising from a party's breach of this Agreement or otherwise as expressly provided herein). The Initial Deposit shall be credited to the Purchase Price.

(d) Additional Deposits. If this Agreement is not terminated during or at the end of the Feasibility Period, and if Optionee exercises any of its Extension Options as provided in **Paragraph 2(b)**, then concurrently with the exercise of any such Extension Option, Optionee shall deposit into Escrow additional payments (each, an "Additional Deposit") in accordance with the terms and conditions of **Paragraph 2(b)**. The Additional Deposits shall constitute good and adequate consideration for the extension of the Option and once released to Owner shall not be refundable to Optionee (even if Optionee never exercises the Option) except in the event of a breach or default by Owner or the failure of a condition to Closing pursuant to **Paragraph 10**.

(e) Deposits Defined. As used in this Agreement, the term "Deposits" means the Initial Deposit and each Additional Deposit, if any, that Optionee deposits in Escrow as provided in **Paragraph 2(b)** below. Each Deposit shall be either an "Applicable Deposit" or a "Non-Applicable Deposit." The Initial Deposit and each Applicable Deposit, if any, made by Optionee that is designated as an Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed "Applicable Deposits" and shall be credited to the Purchase Price at the Closing. Each Additional Deposit, if any, that is made by Optionee and that is designated as a Non-Applicable Deposit in the Table referred to in **Paragraph 2(b)** shall be deemed a "Non-Applicable Deposit" and shall not be credited to the Purchase Price.

2. Option Term: Exercise of Option.

(a) Option Term. The term of the Option shall commence upon the date that this Agreement has been executed and delivered by both Owner and Optionee, as evidenced by the last date set forth below the signatures of Owner and Optionee hereto (the "Execution Date"), and shall expire on December 27, 2010 (the "Initial Option Term"), unless earlier exercised or extended pursuant to **Paragraph 2(b)** below. As used in this Agreement, the term "Option Term" means the Initial Option Term plus each Extension Period with respect to which Optionee has exercised an Extension Option pursuant to **Paragraph 2(b)**.

(b) Extension of Option Term. Notwithstanding **Paragraph 2(a)** or any other provision of this Agreement to the contrary, but subject to **Paragraph 4(d)** below, Optionee shall have the right to extend the Initial Option Term up to twelve (12) times (each, an "Extension Option") for twelve (12) consecutive periods of approximately one-month each (each, an "Extension Period"), as set forth in the table below (the "Table"). In order to exercise the first Extension Option (i.e., for the period from December 27, 2010, through January 31, 2011), on or before close of business on December 27, 2010, Optionee shall (i) notify Escrow Holder and Owner that Optionee elects to exercise the first Extension Option, (ii) instruct

Escrow Holder to release to Owner the Initial Deposit, and (iii) deposit into Escrow for immediate release to Owner the Additional Deposits in the amount set forth in the Table that corresponds to the first Extension Period. In order to exercise the second (and each subsequent) Extension Option, Optionee shall (x) notify Escrow Holder and Owner on or before the commencement of the applicable Extension Period that Optionee elects to exercise the Extension Option corresponding to such Extension Period and (y) deposit into Escrow for immediate release to Owner the Applicable Deposit or the Non-Applicable Deposit, as the case may be, that corresponds to each such Extension Period, in accordance with the Table below:

<u>Extension Period</u>	<u>Applicable Deposit</u>	<u>Non-Applicable Deposit</u>	<u>Total Deposits</u>
12/27/2010 through 1/31/2011	\$56,000 (comprised of the Initial Deposit of \$48,000, plus an Additional Deposit of \$8,000)	\$28,000	\$84,000
2/1/2011 through 2/28/2011	\$0.00	\$21,000	\$21,000
3/1/2011 through 3/31/2011	\$0.00	\$21,000	\$21,000
4/1/2011 through 4/30/2011	\$0.00	\$21,000	\$21,000
5/1/2011 through 5/31/2011	\$0.00	\$21,000	\$21,000
6/1/2011 through 6/30/2011	\$21,000	\$0.00	\$21,000
7/1/2011 through 7/31/2011	\$21,000	\$0.00	\$21,000
8/1/2011 through 8/31/2011	\$21,000	\$0.00	\$21,000
9/1/2011 through 9/30/2011	\$21,000	\$0.00	\$21,000
10/1/2011 through 10/31/2011	\$21,000	\$0.00	\$21,000
11/1/2011 through	\$21,000	\$0.00	\$21,000

11/30/2011			
12/1/2011 through 12/28/2011	\$21,000	\$0.00	\$21,000

(c) Exercise of Option. The Option shall be exercisable by Optionee in its sole and absolute discretion at any time during the Option Term, and shall be exercised, if at all, by delivery to Owner and the Escrow Holder within the Option Term of written notice (the "**Exercise Notice**") of Optionee's exercise of the Option. If Optionee exercises the Option, then (i) Optionee shall not be required to make any Additional Deposits, (ii) Optionee shall be obligated to purchase the Property, subject to the terms and conditions of this Agreement, and (iii) the parties shall proceed to the Closing as provided in Paragraph 4(c) and the other applicable provisions of this Agreement. If Optionee exercises an Extension Option, then the Option Term shall be extended for the Extension Period corresponding to such Extension Option. If the Option is not exercised as provided herein on or before the expiration of the Option Term, or if the Option Term is not extended as provided in Paragraph 2(b), then subject to Paragraph 21 below, the Option shall lapse and be of no further force or effect.

(d) Limitations on Extension Options. Owner acknowledges that Optionee is considering the purchase of the Property, together with certain adjacent properties that Optionee also desires to acquire the option to purchase (collectively, the "**Site**"), in order to redevelop the Site for public purposes (the "**Project**"). In order to proceed with the Project, Optionee may be required to undertake certain environmental and other studies and to obtain certain approvals or clearances that are necessary or appropriate for the redevelopment of the Site, including without limitation the subdivision, re-subdivision or merger of the various parcels comprising the Site, zoning and/or general plan changes, and compliance with the California Environmental Quality Act and applicable regulations and requirements relating to the Project (collectively, the "**Project Approvals**"). Optionee shall work in good faith to obtain the Project Approvals, provided that Optionee makes no assurances that it will be successful in obtaining the Project Approvals or the time required to obtain the Project Approvals. However, if Optionee obtains the Project Approvals, then notwithstanding that Optionee may have one or more unexercised Extension Options at the time it obtains the Project Approvals, the Option Term shall be deemed to have expired on the date that is thirty (30) days after the Project Approvals have been finally approved. As used in this Paragraph 2(d), the Project Approvals shall be deemed to have been "**finally approved**" only after all applicable governmental authorities and public agencies having jurisdiction thereof (collectively, the "**Governmental Authorities**") have granted, certified, or otherwise issued the Project Approvals and all applicable appeal periods for such Project Approvals shall have expired without an appeal or challenge having been taken or made or, if any such appeal or challenge is taken or made, then upon resolution of that appeal or challenge without any change or revision thereto as originally approved by the Governmental Authorities, or with only changes or revisions being made thereto which are approved by Optionee in its reasonable discretion.

3. Purchase Price: Loan Prepayment Fee.

(a) Purchase Price. The purchase price for the Property shall be Two Million Eight Hundred Thousand Dollars (\$2,800,000) (the "**Purchase Price**"). If Optionee exercises the Option, the Purchase Price shall be paid by Optionee to Owner at the Closing as follows: (a) Optionee shall receive a credit to the Purchase Price equal to the sum of the Option Payment, the Initial Deposit, and all Applicable Deposits made by Optionee, plus all interest accrued on the Deposits while in Escrow, and (b) Optionee shall deposit into the Escrow at or prior to the Closing for delivery to Owner a sum (the "**Closing Payment**") equal to the balance of the Purchase Price.

(b) Relocation Compensation. Owner has informed Optionee that the Property currently is leased to General Hardware and Builders Supply, Inc. (the "**Tenant**") pursuant to a Standard Industrial/Commercial Single-Tenant Lease dated February 1, 2001 (the "**Existing Lease**"). If the Closing occurs, then effective as of the Closing (i) Owner shall cause the Existing Lease to be terminated, and (ii) Optionee shall lease-back the Property to the Tenant pursuant to a lease agreement executed and delivered by Optionee and the Tenant at the Closing, in the form of **Exhibit F** attached hereto (the "**New Lease**"). Among other things, the New Lease shall grant Optionee the right to terminate the New Lease following notice to the Tenant, as specifically set forth in the New Lease. In addition to the Purchase Price, if the Closing occurs, then provided the Tenant executes and delivers to Optionee the New Lease and the Hazardous Materials Disclosure Certificate contemplated by the New Lease, Optionee shall deposit in Escrow (for release to the Tenant upon the Closing) the sum of Five Hundred Thousand Dollars (\$500,000) (the "**Relocation Compensation**") as full and complete compensation to Tenant to cover Tenant's costs to relocate its business to another location and for disruption to its business.

4. Escrow.

(a) Opening of Escrow. Promptly after the full execution and delivery of this Agreement, the parties will open an escrow (the "**Escrow**") with Escrow Holder and shall deposit with Escrow Holder a copy of this fully executed Agreement, or executed counterparts hereof. The "**Opening of Escrow**" shall be deemed to have occurred on the date following the execution and delivery of this Agreement by Optionee and Owner that Escrow Holder executes the "Acceptance of Escrow Holder" immediately following the signature pages of this Agreement (the "**Acceptance**") and returns to Optionee and Owner such Acceptance.

(b) Instructions and Fees. This Agreement constitutes joint instructions to the Escrow Holder to consummate the purchase in accordance with the terms and provisions hereof; provided, however, that the parties shall execute such additional escrow instructions, not inconsistent with the provisions hereof, as may be deemed reasonably necessary to carry out the intentions of the parties as expressed herein. If the Closing occurs, Optionee shall pay the cost of the title insurance premium for the Title Policy (as defined in **Paragraph 5(c)**) and City and County documentary transfer taxes, if any. If the Closing occurs, Owner shall pay the costs of removing any exceptions to title (other than Permitted Exceptions), as defined in **Paragraph 5(a)**, and Personal Property Encumbrances, as defined in **Paragraph 5(d)**. Escrow Fees, recording fees, and any other closing costs shall be borne by the parties in accordance with the custom of the County.

(c) Closing. The “**Closing**” shall occur on a date selected by Optionee (either following or concurrently with the exercise of the Option), provided that Owner has received at least fifteen (15) days prior written notice of such date (the “**Closing Date**”), and provided further that the Closing Date shall occur not earlier than thirty (30) days after the Opening of Escrow and no later than thirty (30) days after Optionee’s exercise of the Option pursuant to Paragraph 2(c) (the “**Outside Date**”). If Optionee exercises the Option but fails to provide Owner with at least fifteen (15) days prior written notice of the Closing Date, then unless otherwise agreed in writing by Optionee and Owner the Closing Date shall be the Outside Date. The Closing shall occur only after (i) Optionee has exercised the Option, (ii) all parties to Escrow have fully performed their respective duties, (iii) Escrow Holder is irrevocably committed to issue to Optionee the Title Policy, and (iv) nothing remains to be done in order to transfer to Optionee fee title to the Real Property other than Escrow Holder’s recordation of Owner’s grant deed (the “**Grant Deed**”) with the County recorder; provided that the Closing shall be deemed to have occurred only upon recordation of the Grant Deed with the County recorder.

5. Title

(a) Title Review. Within ten (10) days after the Opening of Escrow, Optionee shall obtain a current preliminary title report for the Real Property issued by Escrow Holder, together with legible and complete copies of all underlying documents referenced as exceptions in the Title Report and a plot plan for the Real Property showing the locations of all recorded easements (collectively, the “**Title Report**”). Optionee shall have the right to obtain an ALTA survey or other survey (the “**Survey**”) of the Real Property at Optionee’s sole cost and, if it obtains the Survey, Optionee shall provide Owner with a copy of it. Within fifteen (15) business days following Optionee’s receipt of both the Title Report and the Survey (collectively, the “**Title Documents**”) but not later than November 10, 2010, Optionee shall either approve in writing the exceptions contained in the Title Documents or specify in writing any exceptions or other matters shown on the Survey to which Optionee objects. All title exceptions and Survey matters not objected to, as well as the New Lease and the lien for current taxes not yet delinquent, shall be referred to as “**Permitted Exceptions**,” except for the following (collectively, “**Owner Removal Items**”): liens of deeds of trust or other monetary obligations, judgment liens, and leases or other occupancy agreements (other than the New Lease), none of which shall constitute “Permitted Exceptions.” Owner shall have ten (10) days after receipt of such notice to advise Optionee by written notice of any disapproved exceptions or matters which will not be removed from title by Owner prior to the Closing (other than Owner Removal Items, which Owner shall be required to remove prior to the Closing). If Optionee provides the Notice to Proceed to Owner during the Feasibility Period, the exceptions contained in the Owner’s notice (other than Owner Removal Items) shall be deemed additional Permitted Exceptions.

(b) New Exceptions. If any new exceptions or matters are first included in any supplement or update to the Title Report issued after the expiration of the Feasibility Period (collectively, “**New Exceptions**”), Optionee shall notify Owner in writing on or before 5:00 p.m. Pacific Time within three (3) business days after receipt of such supplement if Optionee disapproves some or all of the New Exceptions (the “**New Exceptions Objection Notice**”). If Optionee timely delivers to Owner a New Exceptions Objection Notice, Owner shall thereafter have five (5) business days to determine whether Owner is willing to remove the New

Exceptions (the “**Decision Period**”) and deliver notice to Optionee. If at the end of the Decision Period Owner is unwilling to remove the New Exceptions, and if Optionee is unwilling to waive its objections, then either party may terminate this Agreement upon notice to the other. If Optionee waives its objections and elects to proceed to Closing, the New Exceptions shall be deemed to be Permitted Exceptions and Optionee shall not be entitled to any reduction in the Purchase Price. In the event that Owner fails to deliver Owner’s response notice to Optionee as set forth in this **Paragraph 5(b)**, Owner shall be deemed to have elected not to remove the New Exceptions. If prior to the end of the Decision Period Owner advises Optionee that Owner is willing to remove the New Exceptions, then Owner thereafter shall cause the New Exceptions to be removed by the Closing Date. Notwithstanding the foregoing, Owner shall be required to remove at its sole cost any New Exceptions that constitute Owner Removal Items, irrespective of whether Optionee expressly has objected to such exceptions or items.

(c) Title Delivered at Closing. By executing the Grant Deed, Owner shall convey to Optionee (or to such other person or entity as Optionee may designate) marketable fee title to the Real Property subject only to the Permitted Exceptions. Immediately following recordation of the Grant Deed, Escrow Holder shall issue to Optionee an ALTA extended coverage owner’s policy of title insurance (2006 form), with coverage in the amount of the purchase price for the Real Property, showing fee simple title to the Real Property vested in Optionee, subject only to the Permitted Exceptions (the “**Title Policy**”).

(d) Personal Property Encumbrances. To the extent that any of the Personal Property is encumbered by Uniform Commercial Code financing statements or other liens or encumbrances (“**Personal Property Encumbrances**”), Owner shall cause such Personal Property Encumbrances to be released or otherwise removed prior to the Closing.

6. Liquidated Damages. OPTIONEE AND OWNER AGREE THAT IF OPTIONEE EXERCISES THE OPTION PURSUANT TO **PARAGRAPH 2(c)** AND THEREAFTER DEFAULTS ON ITS OBLIGATION TO PURCHASE THE PROPERTY PURSUANT HERETO, THE DAMAGES TO OWNER WOULD BE DIFFICULT AND IMPRACTICAL TO DETERMINE. ACCORDINGLY, IN THE EVENT OF SUCH DEFAULT BY OPTIONEE, OPTIONEE AND OWNER HAVE AGREED TO FIX AS LIQUIDATED DAMAGES THE DEPOSITS, BUT ONLY TO THE EXTENT THE DEPOSITS HAVE THERETOFORE BEEN DEPOSITED WITH ESCROW HOLDER OR PAID DIRECTLY TO OWNER, AND SUCH DEPOSITS SHALL BE RETAINED BY OWNER AS LIQUIDATED DAMAGES, AND SHALL CONSTITUTE OWNER’S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT. OWNER’S RETENTION OF SUCH DEPOSITS AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY UNDER CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO OWNER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. OWNER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTIONS 1680 AND 3389. OWNER AGREES THAT THESE LIQUIDATED DAMAGES SHALL BE IN LIEU OF ANY OTHER MONETARY RELIEF OR OTHER REMEDY, INCLUDING WITHOUT LIMITATION SPECIFIC PERFORMANCE, TO WHICH OWNER OTHERWISE MIGHT BE ENTITLED UNDER THIS AGREEMENT, AT LAW OR IN EQUITY. OPTIONEE AND OWNER SPECIFICALLY ACKNOWLEDGE

THEIR AGREEMENT TO THE FOREGOING LIQUIDATED DAMAGES PROVISION BY INITIALING THIS PARAGRAPH IN THE APPROPRIATE SPACES PROVIDED BELOW.

Optionee's Initials fel

Owner's Initials JR

The above Liquidated Damages provisions shall not limit Optionee's liability to the extent set forth in this Agreement for any damage to persons or property to the extent caused by Optionee or any Optionee's Authorized Parties (as defined in Paragraph 9(a)), which liability shall be in addition to the liquidated damages referenced above.

7. Prorations. If the Closing occurs, all income, if any, and expenses of the Real Property shall be apportioned as of 12:01 a.m., on the day of Closing as if Optionee were vested with title to the Real Property during the entire day upon which Closing occurs. Notwithstanding the generality of the preceding sentence, specific items of income and expense shall be prorated as follows:

(a) Taxes and Assessments. Owner shall pay any delinquent real property taxes and assessments relating to the Real Property. Non-delinquent real estate taxes and assessments imposed by any governmental authority shall be prorated as of the Closing Date based upon the tax bill(s) received for and applicable to the period(s) in which the Closing Date occurs; or, to the extent such tax bill(s) and applicable amount(s) are not available by the Closing Date, based on the most recent ascertainable assessed values and tax rates. Owner shall receive a credit for any prepaid taxes and assessments paid by Owner attributable to the period prior to the Closing to the end of the applicable taxing period.

(b) Utility Charges. Prepaid water, sewer, and other utility charges shall be credited to Owner, and unpaid water, sewer, and other utility charges accruing prior to the Closing shall be credited to Optionee. Optionee shall credit to the account of Owner all refundable cash or other deposits posted by Owner with utility companies serving the Real Property or, at Optionee's option, Owner shall be entitled to receive and retain such refundable cash and deposits.

(c) Contracts. Any amounts owing under the Contracts that are assigned to and assumed by Optionee pursuant to Paragraph 15(a) shall be prorated as of the Closing Date.

(d) Additional Deposits. Any Non-Applicable Deposits made by Optionee pursuant to Paragraph 2(b) shall not be prorated. By way of example, if pursuant to Paragraph 2(b) Optionee makes a Non-Applicable Deposit of Twenty-One Thousand Dollars (\$21,000) on February 1, 2011 (for the Extension Period ending on February 28, 2011), and if the Closing occurs on February 15, 2011, then there shall be no proration of such Non-Applicable Deposit notwithstanding that the Closing occurs prior to the expiration of the applicable Extension Period. The Applicable Deposits (together with the Initial Deposit and the Option Payment) shall be fully credited to the Purchase Price irrespective of when the Closing occurs.

(e) Other Amounts. Any other operating expense or other items pertaining to the Real Property which are customarily prorated between buyers and sellers of real property in the County shall be prorated between Owner and Optionee in accordance with local custom.

(f) Post-Closing Adjustments. Except as otherwise provided in this Agreement, any revenue or expense amount that cannot be ascertained with certainty as of the Closing Date shall be prorated on the basis of the parties' reasonable estimates of such amount, and shall be the subject of a final proration after the Closing. Owner and Optionee agree that, to the extent items are prorated or adjusted at Closing on the basis of estimates, or are not prorated or adjusted at Closing pending actual receipt of funds or compilation of information upon which such prorations or adjustments are to be based, each of them will, upon a proper accounting, pay to the other such amounts as may be necessary such that Owner will receive the benefit of all income and will pay all expenses of the Property prior to the Closing Date and Optionee will receive all income and will pay all expenses of the Property after the Closing Date. Owner and Optionee agree that as soon as reasonably possible, but in no event later than April 15, 2012, the parties shall undertake a final master reconciliation of taxes and other operating expenses with respect to the Property. Such reconciliation shall be final.

(g) Existing Lease. Owner and the Tenant shall prorate all operating expenses, taxes, and other expenses and costs owing under the Existing Lease outside of Escrow. Optionee shall have no liability for any such expenses or costs relating to any period prior to the Closing.

8. Possession. Pursuant to the New Lease, Tenant shall retain possession of the Property as of the Closing Date. At the Closing, Owner shall deliver exclusive possession of the Property to Optionee subject only to the rights of the Tenant under the New Lease.

9. Authorization to Enter; Cooperation.

(a) Authorization to Enter. From and after the Execution Date, Optionee and its agents, employees, contractors, consultants, and other designees (collectively, "**Optionee's Authorized Parties**") may, upon three (3) business days' prior written notice, enter upon the Real Property to conduct any activity and perform any investigation, test, study or analysis for the purpose of determining the feasibility of the Real Property for Optionee's planned development of the Real Property, including, but not limited to, soils studies, Phase I and/or Phase II Hazardous Materials (as defined in **Paragraph 12(d)**) studies, engineering and soil studies, tree surveys, archeological studies, biological studies, utilities studies, hydrology studies and any other matters necessary to evaluate the suitability of the Real Property for Optionee's contemplated purposes. Notwithstanding the above (i) no invasive testing shall be done without Owner's written consent which shall not be unreasonably withheld (it being agreed that Owner shall respond to Optionee's written request for consent within three (3) business days after receipt of such request), and (ii) Optionee shall provide Owner with copies of all results and reports received as a result of any investigation, test, study, or analysis regarding the physical condition of the Property done by any third party consultants on behalf of Optionee. Optionee shall pay all costs with respect to such studies and tests. Optionee's Authorized Parties may bring such equipment on the Real Property as is necessary or appropriate to make such studies. Optionee shall maintain, repair and restore the Real Property as necessary to remedy any damage to the Real Property to the extent caused by the feasibility activities of Optionee's Authorized Parties on the Real Property, shall take reasonable precautions to minimize interference with the activities of Owner on the Real Property, and shall indemnify and hold harmless Owner and Owner's Parties (as hereinafter defined in **Paragraph 13(d)**) from and against all suits, causes of

action, claims, liabilities, damages, losses, fees, fines, costs and expenses including attorneys' and experts' fees (collectively, "**Claims**"), for any injury, loss, or damage to persons or property occurring in connection with the inspections and studies conducted by Optionee's Authorized Parties, except that Optionee shall have no liability for and no obligation to remedy any conditions or defects on or under the Real Property (i) not caused by a Optionee Authorized Party including those that are discovered by a Optionee Authorized Party during its investigations and inspections, or (ii) resulting from the acts or omissions of Owner, or any past and/or present occupant of the Real Property or their respective agents, engineers, contractors, consultants and representatives. Optionee's obligations to indemnify and hold Owner and Owner's Parties harmless pursuant to this **Paragraph (9a)** shall survive the termination of this Agreement and the Closing.

(b) **Cooperation.** Owner shall provide Optionee and its consultants with the opportunity to consult with Owner's environmental consultants and to review any work product prepared by or in the possession of such consultants provided Owner is not legally or contractually precluded from doing so. Owner shall cooperate (at no out-of-pocket cost to Owner) in all reasonable respects in connection with Optionee's evaluation of the environmental condition of the Property and any required clean-up or remediation of Hazardous Materials on, at or under the Property, including executing any authorizations or other documents required for Optionee to obtain access to documents or other information relating to the condition of the Property.

10. **Conditions of Optionee's Performance.** Optionee's obligation to close escrow under this Agreement is subject to Optionee's written approval of the following conditions at or before the earlier of the Closing or such earlier time expressly provided below in this **Paragraph 10**, but Optionee shall have the right to waive any such condition in writing within the time period specified in such condition. If any of the following conditions is not satisfied or waived in writing by Optionee, then Optionee shall be entitled to terminate this Agreement, in which event all Deposits shall be returned immediately to Optionee with interest earned thereon, without any further obligation on the part of either Optionee or Owner, subject to any remedies Optionee may have to the extent that a failure of condition also constitutes a default by Owner under this Agreement.

(a) **Feasibility Study.** Optionee may, in Optionee's sole discretion, approve or disapprove the condition of the Real Property and the feasibility of using the Real Property for Optionee's intended purposes (the "**Feasibility Study**") at any time during the period (the "**Feasibility Period**") commencing on the Opening of Escrow and ending at 5:00 p.m. on the date that is ninety (90) days after the Opening of Escrow. During the Feasibility Period, Optionee shall have the right to deliver to Owner written notice (the "**Notice to Proceed**") of Optionee's approval of the Feasibility Study and election to proceed with the purchase of the Property. Optionee shall be deemed to have disapproved the Feasibility Study if Optionee does not deliver the Notice to Proceed to Owner during the Feasibility Period. If Optionee disapproves or is deemed to have disapproved of the Feasibility Study, then the Deposits previously made by Optionee shall be immediately returned to Optionee.

(b) **Documents.** To the extent Owner has not previously done so, within three (3) days after the Execution Date, Owner shall provide Optionee with copies of all

Contracts, soil and hydrology reports, environmental or toxic material reports, engineering reports, biological studies, archeology reports, improvement plans and specifications, engineering studies, traffic studies, earthquake studies, site history investigation documents, surveys, civil, architectural, landscape and grading plans, working drawings, leases (including all amendments, assignments and other modifications thereof), copies of title insurance policies for the Property, a copy of all income and expense statements for the Property for the prior three (3) years, a list of the Personal Property, copies of all warranties and guaranties pertaining to the Property, unrecorded subordination agreements, unrecorded non-disturbance agreements, subleases, estoppel certificates, licenses, agreements affecting the Real Property, and other information relating to the Real Property, whether in final form or in process, to the extent such documents are in Owner's possession (collectively, the "**Property Documents**").

Notwithstanding the above, Property Documents shall not include any internal reports or documentation generated for the sole use of the members, shareholders, partners, trustees and other constituents of Owner (other than income and expense reports), letters of interest, purchase agreements, expired leases, appraisals, or entity governing documents. Following the delivery of all Property Documents to Optionee, Owner shall provide Optionee with written notification that all Property Documents have been delivered by Owner. Optionee shall have the opportunity to review and approve all Property Documents during the Feasibility Period. If any new Property Documents are first obtained by Owner after the Execution Date, Owner immediately shall deliver such new Property Documents to Optionee. Optionee shall have the right to use all Property Documents, and the Purchase Price includes payment for all Property Documents. Optionee shall not disclose any information contained in the Property Documents, provided that Optionee shall have the right to disclose such information to the following parties and in the following circumstances: (i) Optionee is required to disclose information in the Property Documents in response to a subpoena or other regulatory, administrative or court order, (ii) independent legal counsel to Optionee delivers a written opinion to Owner that Optionee is required to disclose such information, (iii) to actual or potential assignees of this Agreement, (iv) in response to a request for discovery in any legal or administrative proceeding; (v) in connection with any litigation or other dispute by or among the parties to this Agreement; (vi) to the extent any information contained in the Property Documents is or becomes part of the public domain through no fault of Optionee; (vii) in connection with obtaining, administering, and enforcing rights with respect to insurance (including without limitation underwriting insurance, adjusting claims or otherwise procuring, adjusting, challenging, administering, disputing or litigating any issues concerning insurance); (viii) to Optionee's attorneys, accountants, and consultants, and contractors who are involved in due diligence activities or the consummation of the transactions contemplated by this Agreement; or (ix) to the extent required by applicable law. If Optionee fails to exercise the Option as and when required, or if Optionee exercises the Option but fails to close escrow as and when required by this Agreement, at Owner's written request Optionee shall immediately return all Property Documents and copies thereof to Owner.

(c) Owner's Representations and Warranties. Owner's representations and warranties as set forth in Paragraph 12 below shall be true and correct as of, and shall be deemed remade by Owner, as of the Agreement Date, as of the expiration of the Feasibility Period, and as the Closing Date.

(d) Owner's Performance. Owner shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Owner's part at or prior to the Closing.

(e) Title Policy. Escrow Holder shall be ready willing and able to issue to Optionee the Title Policy at the Closing.

(f) Owner's Deliveries. Owner shall deliver into the Escrow the following documents (collectively, the "**Closing Documents**"): (i) the Grant Deed (in the Escrow Holder's standard form) for recordation and delivery to Optionee at the Closing, (ii) an affidavit as required by the Foreign Investment in Real Property Tax Act (in the Escrow Holder's standard form) and a form 593-C as required by California law, (iii) escrow instructions in form and substance consistent with the requirements herein, (iv) an Assignment and Bill of Sale in the form of **Exhibit C** attached hereto (the "**Assignment**"), duly executed by Owner, (v) the New Lease, duly executed by the Tenant, (vi) such duly executed owner's affidavits as may be required by the Escrow Holder to issue the Title Policy at Closing, (vii) all prorations, fees and other amounts to be paid by Owner at Closing, provided that in lieu of depositing such amounts in Escrow, such amounts shall be withheld from the Closing Payment delivered to Owner in accordance with Owner's approved closing statement; and (viii) such evidence as the Escrow Holder may reasonably require as to the authority of the person or persons executing documents on behalf of Owner; and (x) such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

(g) Legal Parcel. The Land shall consist of one or more legal parcels as of the Closing. Notwithstanding anything in this Agreement to the contrary, the condition precedent set forth in this subparagraph may not be waived.

(h) Environmental Condition. There shall exist no environmental matter having a material adverse impact on the Property that was known to Owner on the Agreement Date and was not disclosed in writing to Optionee within three (3) days after the Execution Date as provided in **Paragraph 10(b)** and **Schedule 12(d)** of this Agreement.

(i) Leases. Other than the New Lease, there shall exist no other leases, tenancies, or occupancy agreements affecting the Real Property or any part of the Real Property.

(j) Material Conditions. Each of the above conditions is for the sole benefit of Optionee and each of such conditions is deemed to be material to and of the essence of this Agreement.

11. Conditions of Owner's Performance. All of Owner's obligations hereunder are expressly conditioned on the satisfaction at or before the Closing, or at or before such earlier time as may be expressly stated below, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Owner, at Owner's option):

(a) Optionee's Representations and Warranties. Optionee's representations and warranties as set forth in **Paragraph 13** below shall have been true and correct as of the Execution Date and the Closing Date.

(b) Optionee's Performance. Optionee shall have performed, observed and complied with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on Optionee's part at or prior to the Closing.

(c) Optionee's Deliveries. Optionee shall have delivered to Escrow Holder all instruments and documents required on Optionee's part to effectuate this Agreement and the transactions contemplated hereby, including without limitation, the New Lease, duly executed by Optionee, escrow instructions in form and substance consistent with the requirements herein, a closing statement consistent with the terms of this Agreement, and a certificate of acceptance of the Grant Deed as required by Section 27281 of the California Government Code, and Optionee shall have timely deposited all funds to be deposited into the Escrow pursuant hereto, including without limitation the Closing Payment and the Relocation Compensation.

12. Owner's Representations, Warranties and Covenants. Owner hereby represents, warrants and covenants to Optionee and its assigns, and makes the representations, warranties and covenants set forth in this **Paragraph 12** for the benefit of Optionee and its successors and assigns. Owner shall notify Optionee in writing immediately if Owner becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Owner after the Agreement Date. Owner shall indemnify, protect, defend and hold harmless Optionee from and against all Claims arising from or relating to any misrepresentation made by Owner in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Owner is the sole owner of fee title to the Real Property and has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement by Owner shall have been duly authorized. No approvals, authorizations or consents of any public body or of any person other than Owner's shareholders, partners or members, as applicable, are necessary in connection herewith. This Agreement and all other agreements, documents and instruments to be executed in connection herewith have been effectively authorized by all necessary action, corporate, partnership or otherwise, including, without limitation, authorizations of Owner's Board of Directors, shareholders or members, as applicable, which authorizations remain in full force and effect, have been duly executed and delivered by Owner, and no other corporate, partnership or other proceedings on the part of Owner are required to authorize this Agreement and the transactions contemplated hereby.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Owner do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon the Property or any other assets of Owner by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Owner is a party or which is or purports to be binding upon Owner or the Property or which otherwise affects Owner or the Property, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or

instrumentality is necessary to make this Agreement a valid instrument binding upon Owner in accordance with its terms.

(c) Documents. Owner has provided or will provide Optionee pursuant to **Paragraph 10(b)** with copies of all Property Documents in Owner's possession. All Property Documents delivered or to be delivered to Optionee by Owner and its agents are complete originals or true and correct copies thereof. If Optionee elects not to purchase the Property, Optionee will return to Owner all Property Documents previously delivered to Optionee by Owner. Owner shall deliver as and when required all notices relating to the Property to the extent required by applicable laws or any covenants, conditions or restrictions affecting the Property.

(d) Hazardous Materials. Owner and the Owner Related Parties have not spilled, discharged or released any Hazardous Materials onto, under or about the Property. To Owner's knowledge without inquiry, there are no above ground or underground storage tanks, barrels, drums, pits, wells, lagoons or other containers (collectively, "**Tanks**") or any Hazardous Materials (other than Hazardous Materials contained in lacquer thinner or similar products that are sold by Tenant in containers sealed by the manufacturer and in compliance with applicable laws as required by the Existing Lease) on, in, about or under or within 2,000 feet of the Real Property, including any ground water beneath and surface water thereon (whether by virtue of any storage, release or disposal on, in or under the Real Property or migration to the Real Property), except for the specific Tanks and/or Hazardous Materials and quantities thereof as are disclosed by Owner on **Schedule 12(d)** attached hereto and incorporated herein (the "**Disclosed Hazardous Materials**"). As used herein, the term "**Hazardous Materials**" shall mean any substance, material, waste, chemical, mixture or compound which: (i) is flammable, ignitable, radioactive, hazardous, toxic, corrosive or reactive, and which is regulated under law or by a public entity, (ii) is a "Hazardous Substance" as defined or listed under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, or any regulations promulgated thereunder, (iii) is crude oil, petroleum, natural gas, or distillates or fractions thereof, and/or (iv) damages or threatens to damage health, safety, or the environment, or is required by any law or public entity to be remediated, including remediation which such law or public entity requires in order for property to be put to any lawful purpose. The provisions of this **Paragraph 12(d)** shall survive the Closing.

(e) Compliance. Except as specifically set forth in **Schedule 12(d)** of this Agreement, to the best of Owner's knowledge without inquiry the Real Property is not in violation of any federal, state or local law, statute, regulation or ordinance, and there are no special assessments, condemnation actions or other legal actions or proceedings pending or threatened against the Real Property or any part thereof.

(f) Bankruptcy. Owner is not the subject of a voluntary or involuntary bankruptcy, reorganization, or insolvency petition.

(g) Work Contracts. At the Closing, there will be no outstanding amounts owing by Owner under any Contracts for any improvements to the Real Property. Owner shall cause to be discharged all mechanics' and materialmen's liens arising from any labor and materials furnished prior to the Closing, and shall have eliminated from title all exceptions,

claims, and defects other than the Permitted Exceptions. No person or entity holds any rights to purchase or otherwise acquire all or any portion of the Property (or interest therein), including pursuant to any Option Agreement, option, right of first offer, right of first refusal, gift or other agreement.

(h) Other Contracts. **Exhibit E** to this Agreement sets forth a complete and accurate list of Contracts (other than insurance policies) affecting the Property, and neither Owner nor any provider under any of the Contracts has asserted any breach or default thereunder. Owner has not received any written notice of a Owner default and Owner has no knowledge of any existing Owner defaults under the Contracts. Owner has not received any written notice of a default by another party, and Owner has no knowledge of any existing other party default under the Contracts. Prior to Closing, Owner shall not amend any existing Contract or enter into any new Contract affecting the Property that will survive the Closing, or that would otherwise affect the use, operation or enjoyment of the Property after Closing, without Optionee's prior written approval.

(i) No Commitments. Owner has not made any commitments to any governmental authority, to any adjoining property owner, or to any other organization, group, individual or entity relating to the Real Property which would impose any obligations upon Optionee to make any contributions of money or land or to install or maintain any improvements.

(j) Leases. Other than the Existing Lease, Owner has not executed and is not aware of any other leases, tenancies, subleases, or occupancy agreements affecting the Real Property or any part of the Real Property. Owner is the current landlord under the Existing Lease. Owner is not in default under the Existing Lease and to Owner's knowledge no default on the part of Tenant exists (and no event has occurred that with the passage of time or the giving of notice, or both, that would be a default) under the Existing Lease. Owner has not assigned or otherwise transferred any interest in the Existing Lease to any other party and Owner has not consented to any sublease or assignment of the Existing Lease by the Tenant. As of the Agreement Date and as of the Closing, there shall be no outstanding leasing costs, including without limitation commissions, free rent, tenant improvement costs or allowances, or other tenant inducements or concessions owing by the landlord under the Existing Lease.

(k) Rights of Third Parties. Owner has not alienated, encumbered, transferred, leased, assigned or otherwise conveyed its interest in the Property or any portion thereof except as set forth in the Title Report, and shall not enter into any such agreement that will not be removed prior to the Closing. There are no claims pending or threatened by any third party against Owner or any Owner Party relating to the Property.

(l) Binding Agreement. This Agreement constitutes the legal, valid and binding obligation of Owner and is enforceable in accordance with its terms against Owner subject only to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

(m) Support of Project. As a material inducement to Optionee's execution of and performance under this Agreement, for so long as this Agreement remains in effect and is not terminated prior to the Closing, Owner shall not challenge, oppose or impede, either directly

or indirectly, the Project, and shall use commercially reasonable efforts to cause the Owner's Parties not to challenge, oppose or impede the Project.

(n) Other. Neither this Agreement, nor any of the exhibits or schedules hereto, nor any document, certificate or statement referred to herein or furnished to Optionee in connection with the transaction contemplated herein (whether delivered prior to, simultaneously with, or subsequent to the execution of this Agreement) contains any untrue statement of material fact or, omits to state a material fact in any way concerning the Property or otherwise affecting or concerning the transaction contemplated hereby.

13. Optionee's Representations and Warranties. Optionee hereby makes the representations and warranties set forth in this **Paragraph 13** for the benefit of Owner and its successors and assigns. Optionee shall notify Owner in writing immediately if Optionee becomes aware that any representation or warranty has become untrue or misleading in light of information obtained by Optionee after the Agreement Date. Optionee shall indemnify, protect, defend and hold harmless Owner from and against all Claims arising from or relating to any misrepresentation made by Optionee in this Agreement or in any document, certificate or exhibit given or delivered in connection herewith.

(a) Authority. Optionee has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement by Optionee has been duly authorized.

(b) No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Optionee do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the property or assets of Optionee by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Optionee is a party or which is or purports to be binding upon Optionee or which otherwise affects Optionee, which will not be discharged, assumed or released at the Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Optionee in accordance with its terms.

(c) Litigation. There are no claims, actions, suits or proceedings continuing, pending or threatened, which would materially adversely affect Optionee or this transaction.

(d) As-Is Purchase: Release of Certain Claims. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, OPTIONEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT OWNER IS SELLING AND OPTIONEE IS PURCHASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS, NO PATENT OR LATENT DEFECTS ON THE PROPERTY WHETHER KNOWN NOW OR DISCOVERED LATER SHALL AFFECT THIS AGREEMENT, AND THAT OPTIONEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM OWNER, ITS AGENTS, OR ANY BROKERS AS TO ANY MATTERS

CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, utility systems, facilities and appliances, the square footage within the improvements on the Property, (ii) the quality, nature, adequacy, and physical condition of soils, geology, drainage, and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other land use status of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring properties, (viii) the quality of any labor and materials used in any improvements on the Property, or (ix) the economics of the operation of the Property.

Without limiting the above, but subject to the provisions below relating to Reserved Claims, effective on the Closing Optionee hereby waives its right to recover from, and forever releases and discharges, Owner and Owner's members, shareholders, partners, beneficiaries, successors and assigns, and their respective heirs and personal representatives (collectively, the **"Owner Related Parties"**), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the physical condition of the Property including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and Hazardous Materials on, under or about the Property or on, under or about nearby properties, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater of the Property and nearby properties, (iii) claims of any occupants of the Property against Owner or any Owner Related Party, (iv) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (v) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (vi) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vii) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (viii) the presence of Hazardous Materials on, under or about the Property or the adjoining or neighboring property, (ix) the quality of any labor and materials used in any improvements on the Property, (x) the condition of title to the Property, (xi) economics of the operation of the Property and (xii) any law or regulation applicable to the use or operation of the Property, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.),

the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.) and any other federal, state or local law.

In connection with the matters referred to above in this **Paragraph 13(d)**, Optionee on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Optionee, its agents, successors and assigns, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters referred to above. Section 1542 provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

The preceding provisions of this **Paragraph 13(d)** shall not constitute a waiver of any conditions precedent to Optionee's obligations under this Agreement. In addition, notwithstanding anything in this **Paragraph 13(d)** or any other provision herein to the contrary, Optionee reserves all rights and claims that it may have under this Agreement or applicable law with respect to the following (collectively, "**Reserved Claims**"): (a) fraud, willful misconduct, or the criminal acts of Owner and its members, employees, agents, consultants and contractors (collectively, "**Owner's Parties**"); (b) claims based upon acts or omissions of Owner which occur after the Closing; (c) any claims relating to dealings between Optionee and any Owner Party on transactions or matters relating to other properties; (d) any claims for breach of the representations, warranties, covenants and other obligations expressly set forth in this Agreement; or (e) claims for breach of the representations, warranties, covenants and other obligations set forth in the Closing Documents.

14. **Brokers.** Owner shall pay a brokerage commission to Cassidy Turley/BT Commercial (the "**Broker**") pursuant to a separate agreement between Owner and the Broker. Except for the Broker referred to in this **Paragraph 14**, each party represents to the other that it has not dealt with any other broker, agent, or finder for which a commission or fee is payable in connection with the transaction contemplated by this Agreement. Each party shall indemnify, defend, protect and hold harmless the other from any Claims arising from such party's breach of its representation contained in this paragraph.

15. **Owner's Operating Covenants.**

(a) **Contracts.** Prior to the Closing, Owner shall terminate all Contracts, except for the Contracts that Owner agrees to assign to Optionee and that Optionee agrees to assume. Optionee shall notify Owner of those Contracts, if any, that Optionee wishes to assume within thirty (30) days after receipt of such Contracts. If Optionee fails to notify Owner of its

election to assume any of the Contracts within such thirty (30) day period, Optionee shall be deemed to have elected not to assume any of the Contracts. Those Contracts that Optionee expressly elects to assume, if any, shall be identified in an exhibit to the Assignment and assigned to and assumed by Optionee pursuant to the Assignment.

(b) Leases. From and after the Agreement Date, Owner shall not execute any new leases or modify or amend the Existing Lease, except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion. Owner shall not grant any concession, rebate, allowance or free rent with respect to the Existing Lease, or consent to any sublease, occupancy (other than by Tenant), termination, or lease surrender proposed by Tenant, except with Optionee's written approval, which approval may be withheld in Optionee's sole and absolute discretion.

(c) Other Operating Covenants. From and after the Agreement Date, Owner shall not encumber the Property with any liens, encumbrances or other instruments creating a cloud on title or securing a monetary obligation that will survive the Closing. Owner shall maintain the Real Property in substantially the same condition as it exists as of the Agreement Date. Owner shall timely discharge, prior to the Closing, any and all obligations relating to work performed on or conducted at or materials delivered to the Real Property from time to time by Owner, or at Owner's direction or on its behalf, in order to prevent the filing of any claim or mechanic's lien with respect to such work or materials, and shall indemnify and hold Optionee harmless from any Claims or liens filed or otherwise claimed, in connection with any work, labor and/or materials performed on or furnished by, through or under Owner prior to the Closing. Until the Closing, Owner shall keep in full force and effect all existing insurance policies affecting the Real Property.

16. Assignment. Optionee may assign this Agreement and its rights and obligations hereunder by delivery to Owner of written notice of such assignment, provided that such assignee expressly assumes all of the obligations and liabilities of Optionee under this Agreement arising or accruing after the date of such assignment. If Optionee assigns this Agreement, then the closing documents to be delivered by Optionee and Owner shall be modified so that the assignee's name is substituted in lieu of the name of Optionee. Subject to the preceding provisions of this **Paragraph 16**, this Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties to this Agreement.

17. Memorandum of Agreement. At Optionee's request Owner shall execute and acknowledge a Memorandum of this Agreement substantially in the form attached hereto as **Exhibit B** (the "**Memorandum**"), and Optionee shall be entitled to record same in the official land records of the County. If Optionee fails to exercise the Option within the Option Term, or if this Agreement otherwise terminates for reasons other than Owner's default, Optionee shall execute a quitclaim deed sufficient to release the Memorandum from the Property.

18. Entire Agreement: Amendments. This Agreement and the exhibits hereto set forth all of the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an

agreement in writing, duly executed by or on behalf of the party or parties against whom enforcement of any waiver, change, modification, consent or discharge is sought.

19. Attorneys' Fees. If a legal action, suit, or proceeding is brought by Optionee or Owner to enforce or interpret any of the provisions of this Agreement, or otherwise with regard to the Escrow or the Property, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection therewith. "**Prevailing party**" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other party is in breach or default, if such action is dismissed upon the other party's payment of the sums allegedly due or performance of the covenant allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action whether or not such action proceeds to a final judgment or determination.

20. Optionee's Remedies. Notwithstanding anything to the contrary contained in this Agreement, if the Closing does not occur as the result of the Owner's default of its obligation to deliver title to the Property to Optionee in the manner required hereby or Owner otherwise breaches its obligations to consummate the Closing in accordance with this Agreement, Optionee shall be entitled to pursue all available legal and equitable remedies, including without limitation (a) recovery of all Deposits made by Optionee plus claims for additional damages attributable to such breach or default by Owner (but only to the extent such claims for additional damages do not exceed One Hundred Thousand Dollars (\$100,000)) and (b) specific performance of this Agreement. The foregoing limitations on damages shall not apply to any claims arising from fraud, willful misconduct, or criminal conduct of Owner and shall not limit Optionee's recovery of attorneys' fees or other amounts pursuant to **Paragraph 19**.

21. Cure Period. Notwithstanding the provisions of **Paragraph 20** or any other provision of this Agreement, no default by either party hereto shall result in a termination or limitation of any rights of such party hereunder unless and until the other party shall have notified the defaulting party in writing of such default, and the defaulting party shall have failed to cure such default within ten (10) days after the receipt of such written notice; provided that, where a non-monetary default cannot reasonably be cured within such ten (10) day period, the defaulting party shall not be in default if defaulting party commences such cure within the ten (10) day period and thereafter diligently prosecutes such cure to completion. In addition, if Optionee fails to either exercise the Option pursuant to **Paragraph 2(c)** or to extend the Option Term by exercising an Extension Option pursuant to **Paragraph 2(b)**, then notwithstanding any provision of this Agreement to the contrary, the Option shall not be deemed to have lapsed or terminated unless Optionee fails to either (a) exercise the Option pursuant to **Paragraph 2(c)** or (b) to exercise an Extension Option and to deposit the applicable Additional Deposit required by **Paragraph 2(b)** within ten (10) days after Optionee receives written notice from Owner of either such failure. Notwithstanding the above, the failure by Optionee to consummate the Closing (for reasons other than Owner's default or the failure of a condition to closing specified in **Paragraph 10**) on or before the Closing Date shall result in immediate termination and no such notice shall be required or cure period provided.

22. Entire Agreement. This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof and no representation, inducement, promise, or agreement, oral or written, between the parties not embodied in this Agreement, will be of any effect. This

Agreement supersedes and cancels any and all prior or contemporaneous negotiations, arrangements, representations and understanding, oral or written, if any, between the parties, relating to the subject matter of this Agreement.

23. Risk of Loss. Until the Closing, Owner shall assume all risk of loss with respect to the Real Property. If after the Agreement Date and prior to the Closing all or any part of the Real Property is destroyed by fire, earthquake or other casualty, Optionee shall within ten (10) business days after receipt of written notice from Owner of such casualty (but in all events at least one (1) day before the Closing Date) irrevocably elect either (a) to terminate this Agreement or (b) to keep this Agreement in effect, in which event if the Closing occurs Owner shall pay or assign to Optionee all insurance proceeds paid or payable to Owner (to the extent not previously expended in an effort to restore the Real Property) as a consequence of such casualty, and the Purchase Price shall be reduced by the amount of any deductible or other uninsured loss. If Optionee fails to timely elect either the option in clause (a) or in clause (b) above, then Optionee shall be deemed to have irrevocably elected the option in clause (b) above. If this Agreement is terminated pursuant to this paragraph, then (i) if the termination relates to a casualty occurring during the Initial Option Term, all the Deposits and interest earned thereon while in Escrow shall be returned to Optionee, (ii) if the termination relates to a casualty occurring after the expiration of the Initial Option Term, all the Deposits previously released to Owner shall be retained by Owner, and (iii) neither party shall have any further rights, duties, obligations or liabilities, at law or in equity, arising out of or relating to this Agreement except for those that specifically survive termination of this Agreement pursuant to other paragraphs hereof. Notwithstanding the above, if the damage to the Real Property does not exceed Two Hundred Thousand Dollars (\$200,000), then Optionee shall not have the right to terminate this Agreement pursuant to clause (a) above and shall be deemed to have irrevocably elected to keep this Agreement in effect pursuant to clause (b) above.

24. Miscellaneous.

(a) Time of the Essence. Time is of the essence of this Agreement.

(b) Dates. Any time period to be computed pursuant to this Agreement shall be computed by excluding the first day and including the last day. If the last day falls on a Saturday, Sunday or holiday, the last day shall be extended until the next business day that the Escrow Holder is open for business. As used herein, the term “**days**” means calendar days and the term “**business days**” means all calendar days other than Saturdays, Sundays, or holidays observed by Escrow Holder.

(c) Governing Law. This Agreement shall be governed by the law of the State of California. Owner and Optionee agree that all suits or actions of any kind brought to interpret or enforce the terms of, or otherwise arising out of or relating to this Agreement shall be filed and litigated solely in the state court in the county in which the Real Property is located or if such suit or action cannot be filed and or litigated in state court, then in the federal court located closest to the Real Property. Each party hereby consents to the personal and subject matter jurisdiction of said courts. Owner and Optionee agree that San Mateo County shall for all purposes be considered the place in which this Agreement was entered into, notwithstanding the order in which, or the location or locations at which, it may have been executed or delivered.

(d) Notices. All notices or demands which either party is required or desires to give to the other shall be given in writing by certified mail, return receipt requested with the appropriate postage paid, by personal delivery, by facsimile (provided receipt of a facsimile transmission is confirmed telephonically or otherwise) or by private overnight courier service to the address or facsimile number set forth below for the respective party, or such other address or facsimile number as either party may designate by written notice to the other. All such notices or demands shall be effective as of actual receipt or refusal of delivery. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day. Notwithstanding the foregoing, if Optionee elects to exercises an Extension Option pursuant to **Paragraph 2(b)**, Optionee may elect to give notice of such election to Escrow Holder and Owner by email so long as Optionee makes the required Additional Deposit as and when required by **Paragraph 2(b)**.

To Owner: Schrader Leask Development, Inc.
80 Chemical Way
Redwood City, California 94063
Fax: _____
Attn: Mr. James Leask

With copies to: Kenneth Horowitz, Esq.
951 Mariner's Island Drive, Suite 240
San Mateo, California 94404
Fax: (650) 378-7681

To Optionee: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
Attn: City Manager

With copies to: City of Redwood City
1017 Middlefield Road
Redwood City, California 94063
Fax: (650) 780-5963
Attn: City Attorney

And to: Heffernan Seubert & French LLP
1075 Curtis Street
Menlo Park CA 94025
Fax: (650) 322-2976
Attn: Daniel K. Seubert

(e) Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision

that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

(f) No Third-Party Beneficiaries. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Owner and Optionee only and are not for the benefit of any third party (other than Tenant to the extent of the Relocation Benefits); and, accordingly, no third party (other than Tenant to the extent of the Relocation Benefits) shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

(g) No Fiduciary Relationships. Owner is not the agent or representative of Optionee and Optionee is not the agent or representative of Owner, and nothing in this Agreement will be construed to make Optionee liable to anyone for goods delivered or services performed at the Real Property or for debts or claims accruing against Owner. Nothing in this Agreement will be construed to create any privity of contract or other relationship between Optionee and anyone supplying labor or materials to the Real Property. Nothing in this Agreement, nor the acts of the parties, will be construed to create a partnership or joint venture between Owner and Optionee.

(h) Further Assurances. Each party shall execute, acknowledge, and deliver, after the Agreement Date, including at or after the Closing, such further assurances, instruments and documents as the other may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

(i) Counterparts. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) Survival. Unless otherwise expressly stated in this Agreement, the warranties, representations and covenants of Owner and Optionee shall survive the Closing and delivery of the Grant Deed.

(k) Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

(l) Construction. The paragraph and section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The paragraph headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Agreement. The singular form will include plural, and vice versa. Each term, condition or provision hereof has been freely negotiated and shall be equally binding upon Owner and Optionee and no such term,

condition or provision shall be construed against either party hereto solely because such term, condition or provision was initially drafted or prepared by such party. Unless otherwise indicated, all references to paragraphs or sections are to this Agreement. All exhibits, schedules, addenda and attachments referred to in this Agreement are attached to it and incorporated in it by this reference. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates.

(m) Amendments. No amendment to this Agreement will be binding on any of the parties to this Agreement unless the amendment is in writing and executed by all parties. No acts or omissions of any employee or agent of the parties or any broker, if any, shall alter, change or modify any of the provisions of this Agreement.

(n) Non-Liability of Officials. No officer, official, member, employee, agent, or representatives of Optionee shall be liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon shall be personally enforced against any such official, member, employee, agent, or representative.

(o) Owner's Tax Deferred Exchange. Owner may desire to effect a tax-deferred exchange with respect to its disposition of the Property ("**Owner's Exchange**") pursuant to Section 1031 of the Internal Revenue Code. Owner's Exchange will be structured by Owner at its sole cost and expense and Optionee will have no obligation to acquire or enter into the chain of title to any property other than the Property. Optionee's sole obligation in connection with Owner's Exchange shall be to review and execute such documentation as is reasonably necessary in order to effectuate Owner's Exchange in accordance with the foregoing and the applicable rules governing such exchanges. Optionee's cooperation with Owner's Exchange shall not affect or diminish Optionee's rights under this Agreement, delay the Closing or be construed as Optionee's warranty that Owner's Exchange in fact complies with Section 1031 of the Internal Revenue Code. Optionee shall have the right to review and reasonably approve any documents to be executed by Optionee in connection with Owner's Exchange. Acceptance of title to the Property from Owner's designated intermediary shall not modify Owner's representations, warranties and covenants to Optionee under this Agreement or the survival thereof pursuant to this Agreement. The Grant Deed and all closing documents shall run directly between Owner and Optionee. Owner is relying solely upon the advice and counsel of professionals of Owner's choice in structuring, executing and consummating Owner's Exchange.

(p) Advice of Advisors. Each party to this Agreement acknowledges and agrees that it has obtained and relied upon its own legal counsel and other advisors to evaluate the tax, accounting and legal consequences of entering into this Agreement and consummating the transactions contemplated hereby, and, except as set forth in this Agreement, neither party is relying on any representations or warranties of the other party to this Agreement.

25. Owner's Waivers.

(a) Waiver of Relocation Assistance. Optionee's payment to Owner of the Purchase Price shall constitute full and complete satisfaction of any obligation Optionee may have for providing relocation assistance to Owner and paying its relocation costs, if any, required

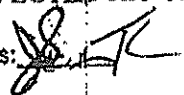
to comply with all applicable federal, state and local laws, rules and regulations arising out of, based upon, or relating to, relocation assistance or benefits owing under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq. or under any other federal, state or local relocation statutes, regulations or guidelines, including but not limited to, any such regulations or guidelines of the City of Redwood City or the County of San Mateo (collectively, "**Relocation Benefits**"). Accordingly, Owner, for itself and for its agents, successors, assigns, fully releases, acquits and discharges Optionee and its officers, officials, members, directors, council members, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (collectively, the "**Released Parties**"), from all Claims that Owner, or any of them, has or may have against the Released Parties for all Relocation Benefits arising out of or related to Optionee's acquisition of the Property or the displacement of Owner or any person claiming under Owner from the Property.

(b) Waiver of Property Rights and Interests. Upon receipt by Owner of the Purchase Price, Owner for itself and for its agents, successors and assigns fully releases, acquits and discharges Optionee and the Released Parties from all Claims that Owner, its agents, successors and assigns has or may have against the Released Parties arising out of or related to Optionee's acquisition of the Property or the displacement of Owner from the Property including, without limitation, all of Owner's property rights and interests in the Property, including but not limited to (i) all leasehold interests and rights of tenancy or occupancy, (ii) all improvements, including improvements pertaining to the realty, furniture, fixture, and equipment, (iii) business goodwill and lost income (past or future) relating to the Property, (iv) Owner's failure to locate a suitable replacement location, (v) lost rental income or sublease or license income, (vi) severance damages and pre-condemnation damages, if any, (vii) economic or consequential damages, (viii) professional consultant fees, attorney's fees and costs, expert witness fees and costs, interest, and (ix) all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Owner, its agents, successors and assigns by reason of Optionee's acquisition of the Property or Owner's displacement from the Property. Notwithstanding the above, Optionee and the Released Parties shall not be released from any obligations to indemnify or hold harmless Owner or Owner's Parties to the extent otherwise provided in this Agreement.

(c) Waiver of Civil Code Section 1542. Owner, on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Owner and its agents, successors and assigns, and any business, enterprise, or venture in which they are involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters Released in **Paragraph 25(a)** or **Paragraph 25(b)** above. Section 1542 provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE

MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Owner's Initials: 

(d) Indemnification. Owner acknowledges that Optionee is relying on Owner's representation and warranty that, other than the Existing Lease, Owner has not executed and is unaware of any other leases, tenancies, subleases, or occupancy agreements affecting the Property ("Owner's Occupancy Representation"). In the event that Owner's Occupancy Representation is untrue, then without limiting Optionee's recourse for Owner's breach of Owner's Occupancy Representation, if such other tenants or occupants shall be entitled to Relocation Benefits, Owner shall have the sole and exclusive responsibility for providing all such Relocation Benefits and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations and satisfying all Claims of such parties. Owner hereby agrees to indemnify, defend, protect and hold the Released Parties harmless from and against any Claims asserted against or sustained by the Released Parties arising from its breach of the Owner's Occupancy Representation, including without limitation claims for Relocation Benefits and inverse condemnation.

(e) Tenant's Right to Relocation Assistance. Notwithstanding anything in this Section 25 to the contrary, the Tenant shall not be deemed to have released any Claims for Relocation Assistance until such time as the Tenant receives the Relocation Compensation as contemplated by Section 3(b) of this Agreement. At the time the Tenant receives the Relocation Compensation, Tenant shall be deemed to have waived all Claims for Relocation Compensation as set forth in the New Lease.

26. Offer and Acceptance. Owner has executed and delivered this Agreement as of the Agreement Date. Owner's execution and delivery of this Agreement to Optionee constitutes an offer to Optionee on the terms and conditions set forth in this Agreement (the "Offer"). The Offer may be accepted only (a) following approval of the transactions contemplated by this Agreement by the City Council of The City of Redwood City and (b) by Optionee's execution of this Agreement in the signature block set forth below and the delivery of this Agreement to Owner. If Optionee does not accept the Offer by executing this Agreement and delivering it to Owner on or before October 20, 2010, Owner shall have the right to revoke the Offer by written notice to Optionee.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the dates set forth below.

"OWNER"

SCHRADER LEASE DEVELOPMENT, INC.,
a California corporation

By: Joseph Schrader

Its: PRESIDENT

By: Chris Lee

Its: Vice President

Dated: 10/7/10

"OPTIONEE"

CITY OF REDWOOD CITY,
a charter city and municipal corporation of the State of California

By: Peter C. Ingram

Name: Peter C. Ingram

Its: City Manager

Dated: October 12, 2010

ATTEST:

Sylvia Vonderlinden, City Clerk

JOINDER AND ACCEPTANCE BY TENANT

The undersigned, General Hardware and Builders Supply, Inc., hereby do, acknowledges that it has received a copy of the foregoing Real Estate Option Agreement (the "Agreement") between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California ("Optionee"), and **SCHRAEDER LEASE DEVELOPMENT, INC.**, a California corporation ("Owner"). Capitalized terms used but not defined in this Joinder and Acceptance by Tenant (the "Joinder") shall have the meanings given to such terms in the Agreement. For the benefit of Owner and Optionee, Tenant hereby represents, warrants and agrees as follows:

1. Tenant currently leases the real property located at 80 Chemical Way, in the City of Redwood City, California (the "Property") pursuant to a Standard Industrial/Commercial Single Tenant Lease dated February 1, 2001 between Tenant and Owner (the "Existing Lease").
2. If Optionee (or its successor or assignee) consummates the purchase of the Property from Owner, then effective as of the Closing of the Escrow for such sale, the Existing Lease (a) shall be terminated (and if requested, the Tenant will execute such agreements or other documentation reasonably requested by Owner, Optionee and/or the Escrow Holder to confirm such termination), (b) the Optionee (or its successor or assignee) shall lease-back the Property to the Tenant pursuant to a lease agreement to be executed and delivered by Optionee (or its successor or assignee) and the Tenant through the Escrow, in the form of **Exhibit F** attached to the Agreement (the "New Lease"), and (c) Optionee shall deposit in Escrow (for release to the Tenant upon the Closing) the sum of Five Hundred Thousand Dollars (\$500,000) (the "Relocation Compensation") as full and complete compensation to Tenant to cover all of Tenant's costs to relocate its business to another location and for disruption all its business.
3. Provided the conditions referred to in Paragraph 2 above have been satisfied, Tenant shall execute and deliver the New Lease through the Escrow (together with appropriate escrow instructions) and the Hazardous Materials Disclosure Certificate contemplated thereby. Tenant acknowledges that it has had the opportunity to review the New Lease with counsel or other advisors of its choice and that Tenant approves all terms and conditions thereof, including without limitation the terms and conditions relating to the landlord's right to terminate the New Lease upon six months' notice and the Tenant's waiver of all Relocation Benefits (as defined in the New Lease). Prior to the Closing, Tenant further agrees to provide Owner, Optionee, and the Escrow Holder with estoppel certificates in accordance with the provisions set forth in the Existing Lease.
4. Tenant has not subleased the Property or otherwise granted rights of occupancy or possession to any other party.
5. The undersigned executing this Joinder have full authority to bind the Tenant. Tenant acknowledges that Owner and Optionee are relying on the promises of Tenant set forth in this Joinder and that absent such promises they would not execute the Agreement.

Dated: 10/7/10

General Hardware and Builders Supply, Inc.

By: [Signature]

Name: James McGee

By: Vice President

ACCEPTANCE BY ESCROW HOLDER

First American Title Insurance Company hereby acknowledges that it has received a fully executed counterpart of the foregoing Real Estate Option Agreement ("**Contract**") and agrees to act as Escrow Holder or agent under the Contract and to be bound by and perform the terms thereof as such terms apply to Escrow Holder.

Dated: 10-13-2010

First American Title Insurance Company

By: K. Olin

Name: KARIN MATSUHARA

Its: SENIOR VICE PRESIDENT ESCROW

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

LOT 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE(S) 3.

APN: 052-392-190-6
JPN: 052-039-392-19A

EXHIBIT B
MEMORANDUM OF OPTION AGREEMENT

Recording Requested by and:
When Recorded Return to:

This Space For Recorder's Use Only

MEMORANDUM OF REAL ESTATE OPTION AGREEMENT

By this Memorandum of Real Estate Option Agreement (this "**Memorandum**") dated as of _____, 2010, _____ ("**Owner**"), and **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), acknowledge and agree to the following:

1. Real Estate Option Agreement. Pursuant to the terms of that certain unrecorded Real Estate Option Agreement (the "**Option Agreement**"), by and between Owner and Optionee, dated as of _____, Owner has granted to Optionee the exclusive right and option to purchase that certain real property, consisting of approximately _____ acres, having Assessor Parcel No. _____, located in the City of _____, County of _____, State of California, as more particularly described on **Exhibit A** attached hereto (the "**Property**").

2. Term. The term of the Option Agreement, and any rights or interest of Optionee in and to the Property created hereby, shall begin on the date of this Memorandum, and shall end no later than December 31, 2011, and may end earlier as provided in the Option Agreement.

3. Price and Terms. The price and other terms are set forth in the Option Agreement, all of the terms, covenants and conditions of which are incorporated herein by reference as though set forth fully herein. In the event of any inconsistency between this Memorandum and the Option Agreement, the Option Agreement shall control. All capitalized terms used herein and not otherwise defined herein shall have the same meaning as is set forth in the Purchaser Agreement.

4. Effect. Owner and Optionee have executed and recorded this Memorandum for the purpose of imparting notice of the Option Agreement and the respective rights and

obligations of Owner and Optionee thereunder. The obligations of Owner and Optionee to be performed under the Option Agreement and this Memorandum, whether to be performed on the Property or elsewhere and whether such obligations are affirmative or negative in nature, are intended to and shall bind Owner and Optionee and shall bind and inure to the benefit of and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, Owner and Optionee have signed this Memorandum of Option Agreement dated as of the date first set forth above.

OWNER:

_____,
a _____

By: _____

Name: _____

Its: _____

OPTIONEE:

CITY OF REDWOOD CITY, a charter city and
municipal corporation of the State of California

By: _____

Name: _____

Its: _____

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

State of California

County of _____

On _____ before me _____

Personally
appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

Exhibit A

Legal Description to Memorandum

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

LOT 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE(S) 3.

APN: 052-392-190-6
JPN: 052-039-392-19A

EXHIBIT C

ASSIGNMENT AND BILL OF SALE

Reference is hereby made to that certain property located in the City of Redwood City, County of San Mateo, California (the "**Land**"), as described in more detail on Exhibit A of that certain Real Estate Option Agreement between Owner and Optionee (as such parties are defined below) dated as of _____, 2010 (the "**Agreement**"). Capitalized terms used but not defined in this Assignment and Bill of Sale (the "**Assignment**") have the meaning given to such terms in the Agreement.

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned ("**Owner**"), does hereby, give, grant, bargain, sell, transfer, assign, convey and deliver to **THE CITY OF REDWOOD CITY**, a charter city and municipal corporation of the State of California ("**Optionee**"), the following:

(a) Owner's interest in all rights, privileges and easements appurtenant to the Land, including, without limitation, all minerals, oil, gas and other hydrocarbon substances as well as all development rights, air rights, water, water rights (and water stock, if any) relating to the Land and any easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land (collectively, the "**Appurtenances**");

(b) Owner's interest in all improvements and fixtures located on the Land, including all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land, such as heating and air conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, garbage disposal, recreation or other services on the Land (all of which are collectively referred to as the "**Improvements**" and, together with the Land and the Appurtenances, the "**Real Property**"); and

(c) Owner's interest in any tangible or intangible personal property owned by Owner and used in the ownership, use and operation of the Land, the Appurtenances and the Improvements, including, without limitation, (i) the right to use any trade name now used in connection with the Real Property, (ii) all of Owner's right, title and interest in and to all plans and specifications relating to the Real Property, (iii) all existing warranties and guaranties (express or implied) relating to the Real Property, (iv) Owner's rights under the contracts and agreements, if any, described on **Schedule ____** hereto (the "**Contracts**"), and (v) the Property Documents all other intangible rights or claims that run with or relate to the Real Property (collectively, the "**Personal Property**").

Optionee hereby assumes all of the obligations of Assignor under the Contracts described on **Schedule ____** attached hereto, to the extent such obligations relate to the period after the Closing under the Agreement (the "**Transfer Date**"), and agrees to be bound by such Contracts from and after the Transfer Date for the remainder of the terms thereof. Optionee's acceptance of this Assignment shall not constitute or be deemed to constitute an assumption by Optionee of any duties, liabilities or obligations of Owner under any other contracts or agreements.

Owner hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Optionee, its nominees, successor and /or assigns, any new or confirmatory instruments and do and perform any other acts which Optionee, its nominees, successors and/or assigns, may request in order to fully transfer possession and control of, and protect the rights of Optionee, its nominees, successors and/or assigns in, all the assets of Owner intended to be transferred and assigned hereby.

IN WITNESS WHEREOF, this Assignment is executed by Owner as of the date set forth above.

OWNER:

OPTIONEE:

SCHEDULE OF ASSUMED CONTRACTS

EXHIBIT D

[Intentionally omitted]

EXHIBIT E
LIST OF CONTRACTS

EXHIBIT F
FORM OF LEASE

LEASE AGREEMENT

80 CHEMICAL WAY

This Lease Agreement (this "**Lease**"), dated _____, for reference purposes only, is made and entered into by and between **THE CITY OF REDWOOD CITY**, a charter city and a municipal corporation of the State of California ("**Landlord**"), and **GENERAL HARDWARE AND BUILDERS SUPPLY, INC.**, a California corporation ("**Tenant**"). Landlord and Tenant agree to the terms, covenants and conditions of this Lease, as follows:

1. Definitions

1.1 Property. The term "**Property**" shall mean the real property located at 80 Chemical Way in the City of Redwood City, California, together with all improvements now or hereafter located on the real property, as described on Exhibit A.

1.2 Building. The term "**Building(s)**" shall mean, individually or collectively as the case may be, the building or buildings located on the Property as of the date of this Lease.

1.3 Premises. The term "**Premises**" shall mean the Property, the Building(s), and any other improvements located on the Property.

1.4 Option Agreement. The term "**Option Agreement**" means the Real Property Option Agreement between Landlord (as the "Optionee") and Schraeder Leask Development, Inc., a California corporation (as the "Owner") dated _____, 2010.

2. Demise, Term and Possession

2.1 Demise of Premises. Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord for the term, at the rental, and upon all of the other terms, covenants and conditions set forth herein. Tenant acknowledges that it is currently in possession of the Premises and accepts the Premises in their "as is" condition. Landlord makes no representations or warranties regarding the condition of the Premises, the Building(s) or the Property. Landlord shall have no obligation to make any alterations or improvements to the Premises, the Building(s) or the Property.

2.2 Term and Delivery. The term of this Lease (the "**Term**") (a) shall commence on the date that Landlord consummates the purchase of the Property from Tenant (the "**Commencement Date**") and (b) shall expire on the date that this Lease is terminated by Tenant or by Landlord as provided in **Section 2.4** or **Section 2.5**, below; provided, however, that the Term of the Lease in all event events shall expire on December 31, 2012, unless otherwise agreed

in writing by Landlord and Tenant. The date upon which the term of the Lease expires or is terminated in accordance with the terms of this Lease is referred to as the “**Expiration Date.**”

2.3 Delay in Delivery of Possession. The Commencement Date is expected to occur on or before December 31, 2011. If for any reason Landlord fails to deliver possession of the Premises to Tenant on the anticipated Commencement Date described above, Landlord shall not be liable to Tenant therefor, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder.

2.4 Termination by Tenant Notwithstanding anything in this Lease to the contrary, Tenant may terminate this Lease at any time, and for any or no reason, by delivering written to Landlord at least thirty (30) days prior to the termination date specified in such notice. If Tenant exercises such termination right, then the Expiration Date shall be the date set forth in such notice, provided such date is at thirty (30) days after the date such notice is delivered by Tenant to Landlord.

2.5 Termination by Landlord. Notwithstanding anything in this Lease to the contrary, Landlord may terminate this Lease at any time, and for any or no reason, by delivering written notice (the “**Landlord’s Termination Notice**”) to Tenant at least six (6) months prior to the termination date specified in such notice. If Landlord exercises such termination right, then the Expiration Date shall be the date set forth in the Landlord’s Termination Notice, provided such date is at least six (6) months after the date the Landlord’s Termination Notice is delivered by Landlord to Tenant. Notwithstanding the preceding provisions of this **Section 2.5** to the contrary, Landlord shall not deliver Landlord’s Termination Notice until the later of (a) six (6) months after the Commencement Date, and (b) the date that is six (6) months before the date on which Landlord anticipates that it will require exclusive possession of the Premises in order to commence demolition of the improvements on the Premises and construction of new improvements on the Premises (the “**Anticipated Possession Date**”). Tenant acknowledges that Landlord (or its successors or assigns) desires to acquire the Property and certain other real property adjacent or contiguous to the Property as part of an assemblage of land that Landlord presently intends to jointly develop as a unified project (the “**Project**”) and that the timing for the planning, design, and permitting of the Project and the date by which Landlord shall require exclusive possession of the Premises for commencement of demolition and other pre-construction activities is difficult to ascertain with certainty. Accordingly, so long as Landlord acts in good faith, the timing of Landlord’s delivery of the Landlord’s Termination Notice pursuant to clause (b) of this **Section 2.5** shall be binding on Tenant. However, if Landlord delivers Landlord’s Termination Notice under clause (b) of this **Section 2.5** and if as of the Anticipated Possession Date Landlord in its sole discretion determines that it does not then require possession of the Premises, then Landlord shall notify Tenant of such fact and the Term of the Lease shall continue on a month-to-month basis at the rental amount set forth in **Section 3.1**. In such event, the month-to-month tenancy may be terminated by either Landlord or Tenant by its delivery to the other party of written notice electing to terminate this Lease, provided that Landlord shall not exercise such termination right until it determines in its sole discretion that it will require possession within thirty (30) days after the delivery of such termination notice.

2.6 Entry by Landlord. At any time during the Term, Landlord and its agents, employees, contractors, consultants, and other designees (collectively, "**Landlord's Authorized Parties**") may, upon two (2) business days' prior written notice, enter upon the Property to conduct any activity and perform any investigation, test, study or analysis for the purpose of planning, designing, surveying, or otherwise developing the Property, including, but not limited to, soils studies, engineering studies, tree surveys, archeological studies, biological studies, utilities studies, hydrology studies, preparation of plans, and any other matters relating to Landlord's contemplated use of the Property. Landlord shall pay all costs with respect to such studies and tests. Landlord's Authorized Parties may bring such equipment on the Premises as is necessary or appropriate to make such studies or otherwise undertake such activities. Landlord shall use commercially reasonable efforts to minimize disturbance of Tenant's business then-being conducted at the Premises.

3. Rent.

3.1 Base Rent. Tenant shall pay to Landlord, for each calendar month of the Term of this Lease, monthly base rent of Two Thousand Five Hundred Dollars (\$2,500) per month (hereafter called "**Base Rent**"). The Base Rent shall not be increased during the Term (including any extension of the Term as provided in Section 2.5) unless Tenant holds over after the expiration of the Term as provided in **Section 27**).

3.2 Rent Defined; Manner of Payment. The term, "**rent**" as used in this Lease shall include the Base Rent and all other sums required to be paid by Tenant to Landlord pursuant to the terms of this Lease. Tenant shall pay to the order of Landlord (at the address identified in the opening paragraph of this Lease) all rent payable under this Lease without deduction, offset, or abatement, and without prior notice or demand, in advance on the first day of each calendar month of the Term of this Lease. Rent shall be payable in lawful money of the United States to Landlord at the address stated in the initial paragraph above or to such other persons or at such other places as Landlord may from time to time designate in writing. Tenant's obligation to pay rent for any partial month shall be prorated on the basis of a thirty (30) day month. Base Rent for the first full calendar month of the Lease term shall be paid to Landlord upon the execution hereof.

3.3 Late Payment Charge. If any installment of rent or any other sum due from Tenant is not received by Landlord within three (3) days after the date due, Tenant shall pay to Landlord an additional sum equal to ten percent (10%) of the amount overdue as a late charge to compensate for processing and accounting charges and any charges that may be incurred by Landlord. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount.

4. Use.

4.1 Permitted Uses The Premises shall be used and occupied only for the following purposes (the "**Permitted Use**") and for no other use or purpose whatsoever: retail, industrial, wholesale, and construction.

4.2 Compliance with Law Tenant shall accept possession of the Premises in their condition existing as of the date of Landlord's delivery of possession thereof to Tenant, subject to all laws, ordinances, codes, rules, orders, directions and regulations of lawful governmental authority (collectively, "**Applicable Laws**") regulating the use or occupancy of the Premises, and all matters disclosed by any exhibits attached hereto. Tenant, at Tenant's sole expense, shall promptly comply with all Applicable Laws as may now or hereafter be in effect relating to or affecting the condition, use or occupancy of the Premises. Without limiting the foregoing, Tenant shall obtain all permits, clearances or other authorizations required from the City of Redwood City and all other applicable governmental agencies and authorities required for Tenant's use and occupancy of the Premises.

4.3 Restrictions on Use Tenant shall not use or permit the use of the Premises in any manner that will tend to create waste on the Premises or constitute a nuisance to any other occupant or user of the Building(s) or any other portion of the Property or adjacent thereto or do or keep anything that will cause cancellation of or an increase in rates of any insurance covering the Building(s). Tenant shall not use any apparatus, machinery, or other equipment in or about the Premises that may overload existing electrical systems, and shall not place any loads upon the floors, walls, or ceilings of the Premises which may jeopardize the structural integrity of the Building(s) or any part thereof. Tenant shall not make any penetrations of the roof or exterior of the Building(s) without the prior written approval of Landlord. No materials or articles of any nature shall be stored outside of the Building(s) unless such storage complies with all Applicable Laws and governmental requirements and the rules and regulations set forth in **Exhibit B** hereto.

4.4 Hazardous Substances

(a) Reportable Uses Require Consent The term, "**Hazardous Substance**," as used in this Lease, shall mean any product, substance, chemical, material, or waste whose presence, nature, quantity, and/or intensity of existence, use, manufacture, disposal, transportation, spill, release, or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substance shall include, but not be limited to, hydrocarbons, petroleum, battery acid, gasoline, crude oil, or any products or by-products thereof. Tenant shall not engage in any activity in or about the Premises which constitutes a Reportable Use (as hereinafter defined) of Hazardous Substances without the express prior written consent of Landlord and compliance in a timely manner (at Tenant's sole cost and expense) with all Applicable Laws (as defined in **Section 4.2**). "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a

permit from, or with respect to which a report, notice, registration, or business plan is required to be filed with, any governmental authority, and (iii) the presence in, on, or about the Premises of a Hazardous Substance with respect to which any Applicable Laws require that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Tenant may, without Landlord's prior consent, but upon notice to Landlord and in compliance with all Applicable Laws, use any ordinary and customary materials reasonably required to be used by Tenant in the normal course of the Permitted Use, so long as such use is not a Reportable Use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage, or expose Landlord to any liability therefor. In addition, Landlord may (but without any obligation to do so) condition its consent to any Reportable Use of any Hazardous Substance by Tenant upon Tenant's giving Landlord such additional assurances as Landlord, in its reasonable discretion, deems necessary to protect itself, the public, the Premises, and the environment against damage, contamination, injury, and/or liability therefor, including but not limited to the installation (and, at Landlord's option, removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasements) and/or the deposit of an additional Deposit. Notwithstanding the above, Tenant may continue to utilize any Hazardous Substances, including but not limited to those that would constitute a Reportable Use provided Tenant was using such materials prior to the Commencement Date, Tenant discloses the types and quantities of Hazardous Substances being used by Tenant as provided in **Section 4.4(f)**, and all such continuing use, handling, storage and disposal is done in accordance with all Applicable Laws.

(b) Duty to Inform Landlord. If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance is located in, under, or about the Premises or the Building(s), Tenant shall immediately give Landlord written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action, or proceeding given to, or received from, any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to such Hazardous Substance. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including, without limitation, through the plumbing or sanitary sewer system).

(c) Indemnification. Tenant shall indemnify, protect, defend, and hold Landlord, and the officers, directors, officials, shareholders, members, partners, employees, managers, independent contractors, attorneys, and agents of the foregoing (collectively, "**Landlord Parties**") and the Premises harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance on or brought onto the Premises during the Term by or for Tenant or by any of Tenant's employees, agents, contractors, servants, visitors, suppliers, or invitees (such employees, agents, contractors, servants, visitors, suppliers, and invitees as herein collectively referred to as "**Tenant Parties**"). Tenant's obligations under this **Section 4.4(c)** shall include, but not be limited to, the effects of any contamination or injury to person, property, or the environment created or suffered by Tenant, and the cost of investigation (including consultants' and attorneys' fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved.

(d) Remedial Work by Tenant. If any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or remediation of Hazardous Substances (collectively, "**Remedial Work**") is required under any Applicable Laws as a result of the handling, use, storage, treatment, transportation or disposal of any Hazardous Substances after the Commencement Date by Tenant or any Tenant Party, then Tenant shall perform or cause to be performed the Remedial Work in compliance with Applicable Laws or, at Landlord's option, Landlord may cause such Remedial Work to be performed and Tenant shall reimburse Landlord for all costs relating to such Remedial Work within thirty (30) days after demand. All Remedial Work performed by Tenant shall be performed by one or more contractors, selected by Tenant and approved in advance in writing by Landlord, and under the supervision of a consulting engineer selected by Tenant and approved in advance in writing by Landlord. All costs and expenses of such Remedial Work shall be paid by Tenant, including, without limitation, the charges of such contractor(s), the consulting engineer and Landlord's reasonable attorneys' and experts' fees and costs incurred in connection with monitoring or review of such Remedial Work.

(e) Landlord Inspection Rights. Landlord shall have the right, at any time with two (2) business days prior written notice to Tenant, to inspect the Premises and conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this **Section 4**. The costs of all such inspections, tests and investigations shall be borne solely by Landlord, unless it is determined that Tenant is not in compliance with this **Section 4**, in which event Tenant shall reimburse Landlord for such costs within ten (10) days after Landlord's demand. The foregoing rights granted to Landlord shall not, however, create (i) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe the Premises or the activities of Tenant or any Tenant Party with respect to Hazardous Substances, including, but not limited to, Tenant's operation, use or remediation thereof, or (ii) liability on the part of Landlord or any Landlord Entity for Tenant's use, storage, treatment, transportation, release, or disposal of any Hazardous Substances, it being understood that Tenant shall be solely responsible for all liability in connection therewith.

(f) Hazardous Substances Disclosure Certificate. Prior to executing this Lease, Tenant has completed, executed and delivered to Landlord a Hazardous Materials Disclosure Certificate ("**Initial Disclosure Certificate**"), a fully completed copy of which is attached hereto as **Exhibit C** and incorporated herein by this reference. The completed Hazardous Substances Disclosure Certificate shall be deemed incorporated into this Lease for all purposes, and Landlord shall be entitled to rely fully on the information contained therein. Tenant shall, at such times as Tenant desires to handle, produce, treat, store, use, discharge or dispose of new or additional Hazardous Substances on or about the Premises that were not listed on the Initial Disclosure Certificate, complete, execute and deliver to Landlord an updated Disclosure Certificate (each, an "**Updated Disclosure Certificate**") describing Tenant's then current and proposed future uses of Hazardous Substances on or about the Premises, which Updated Disclosure Certificates shall be in the same format as that which is set forth in **Exhibit C** or in such updated format as Landlord may reasonably require from time to time. Tenant shall deliver an Updated Disclosure Certificate to Landlord not less than thirty (30) days prior to the date Tenant intends to commence the manufacture, treatment, use, storage, handling,

discharge or disposal of new or additional Hazardous Substances on or about the Premises, and Landlord shall have the right to approve or disapprove such new or additional Hazardous Substances in its reasonable discretion. Tenant shall make no use of Hazardous Substances on or about the Premises except as described in the Initial Disclosure Certificate or as otherwise approved by Landlord in writing in accordance with this **Section 4.4(f)**.

4.5 Covenants, Conditions, and Restrictions. Tenant shall comply with all covenants, conditions, and restrictions (if any) that now or hereafter encumber the Property and any subsequent amendments thereto.

4.6 Rules and Applicable Laws. Tenant shall comply with all rules and regulations set forth in **Exhibit C** hereto and any subsequent amendments thereto.

5. Taxes.

5.1 Tenant's Personal Property. Tenant shall pay prior to delinquency all taxes, license fees, and public charges assessed or levied against Tenant or Tenant's estate in this Lease or Tenant's leasehold improvements, trade fixtures, furnishings, equipment and all other personal property and merchandise of Tenant situated in or about the Premises.

5.2 Landlord's Obligations to Pay Real Property Taxes. Landlord shall pay all Real Property Taxes (as hereinafter defined) which become due during the Lease term. The term "**Real Property Taxes**" as used herein shall mean the ad valorem real property taxes and assessments shown on tax bills issued by the tax assessor's office.

6. Maintenance and Repairs.

6.1 Tenant's Obligations. Except as otherwise specifically provided herein Tenant shall throughout the Term, at Tenant's expense, keep in safe condition and in substantially the same condition existing as of the Commencement Date (including any defects existing as of the Commencement Date, and further subject to reasonable wear and tear and damage arising from casualty or any taking of the Premises by any governmental authority), the Premises and every part thereof, including without limitation, (a) the foundation and exterior walls of the Building(s) (including the exterior and interior of all walls and the exterior and interior of all windows, doors and plate glass), (b) the roof of the Building(s), including structural supports and the roof membrane, (c) all plumbing, fire sprinkler and sewage systems, and all ducts, pipes, vents or other parts of the heating, ventilation and air conditioning system (the "**HVAC**") which are located in the Building(s), (d) all electrical and lighting facilities, systems, appliances, and equipment, including all wiring therein, (e) all fixtures, interior walls, interior surfaces of exterior walls, floors, and ceilings, (f) all windows, doors, entrances, all glass (including plate glass), and skylights located within the Premises, (g) all landscaping, parking areas, loading areas, and (h) any other tanks, equipment or other apparatus located on the Property. Tenant shall provide all cleaning, window washing, and janitorial service required for the Premises. All repairs required to be made by Tenant shall be made in accordance with all Applicable Laws. If the repair work required above affects the structural parts of the Building(s),

or if the estimated cost of any item of repair exceeds Fifty Thousand Dollars (\$50,000), then Tenant shall first obtain Landlord's written approval of the scope of work, plans therefor, materials to be used and the contractor. Notwithstanding anything in this **Section 6.1** or elsewhere in this Lease to the contrary, Tenant shall have no obligation to perform or pay for (a) repair or maintenance of the Premises or the Building(s), to the extent such maintenance and repair is attributable to a casualty subject to the provisions of **Section 13** hereof or a condemnation subject to the provisions of **Section 14** hereof or (b) repairs for any heating, ventilation, air conditioning or other equipment or component of the Building(s) if (i) the reasonable cost of repair or replacement of any such item exceeds Five Thousand Dollars and (ii) Tenant has not taken any action in violation of this Lease that has caused the damage to such item that necessitates the repair or replacement.

6.2 Landlord's Obligations. Tenant acknowledges that Landlord shall have no obligation whatsoever to maintain or repair the Property, the Building(s) or the Premises or to provide any services relating thereto other than the obligation to repair the Premises in the event of a casualty to the extent set forth in **Section 13** of this Lease. Tenant hereby waives the benefit of any statute now or hereinafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good condition, order and repair. Tenant specifically waives all rights it may have under Sections 1932(l), 1941, and 1942 of the California Civil Code, and any similar or successor statute or law.

6.3 Condition of Premises. Landlord acknowledges that pursuant to **Paragraph 13(d)** of the Option Agreement it has purchased the Property from Owner in its "as is" condition and has released the Owner and the "Owner's Parties" (as defined therein) from certain claims. For purposes of **Section 6.1** and **Section 26** of this Lease, Tenant shall be deemed a third party beneficiary of **Paragraph 13(d)** of the Option Agreement, provided that Tenant shall not be released from any demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses arising from any spill, release, or other handling of Hazardous Substances by Tenant or any Tenant's Parties or any violation of Applicable Laws arising from the activities of Tenant or any Tenant's Parties.

7. Alterations.

7.1 Landlord's Consent Required. Except for Permitted Alterations (as defined below), Tenant shall not, without Landlord's prior written consent, make any alterations, improvements, additions, or utility installations (collectively the "alterations") in, on or about the Premises. As used in this **Section 7.1**, the term "utility installation" means power panels, wiring, florescent fixtures, space heaters, conduits, air conditioning and plumbing. Prior to construction or installation of any alterations, Landlord may require Tenant to provide Landlord, at Tenant's expense, a lien and completion bond in an amount equal to the estimated cost of such alterations, to insure Landlord against any liability for mechanic's and materialmen's liens and to insure completion of the work. Should Tenant make any alterations without the prior written consent of Landlord, Tenant shall immediately remove the same at Tenant's expense upon demand by Landlord. Any alterations made by Tenant shall not interfere with the use or

occupancy of the Building(s) by any other tenants nor interfere with the operation of any mechanical apparatus or electrical or plumbing system in the Building(s). Notwithstanding the foregoing, Tenant shall have the right to make non-structural alterations and utility installations the cost of which does not exceed \$50,000 during the Term of this Lease so long as such alterations and utility installations are installed in accordance with Applicable Laws and Tenant obtains all permits required for such alterations or utility installations (collectively, “**Permitted Alterations**”)

7.2 Plans and Permits. Any alteration (other than Permitted Alterations) that Tenant desires to make in or about the Premises and which requires the consent of Landlord shall be presented to Landlord in written form, with proposed detailed plans and specifications therefor prepared at Tenant’s sole expense. Any consent by Landlord thereto shall be deemed conditioned upon Tenant’s subsequent acquisition of all permits required to make such alteration from all appropriate governmental agencies, the furnishing of copies thereof to Landlord to the extent required prior to commencement of the work, and the compliance by Tenant with all conditions of said permits in a prompt and expeditious manner, all at Tenant’s sole expense. Upon completion of any such alteration, Tenant, at Tenant’s sole cost, shall immediately deliver to Landlord “as-built” plans and specifications therefor.

7.3 Construction Work Done by Tenant. All construction work required or permitted to be done by Tenant shall be performed by a licensed contractor in a prompt, diligent, and good and workmanlike manner and shall conform in quality and design with the Premises existing as of the Commencement Date, and shall not diminish the value of the Building(s) or the Property. In addition, all such construction work shall be performed in compliance with all applicable statutes, ordinances, regulations, codes and orders of governmental authorities and insurers of the Premises. Tenant or its agents shall secure all licenses and permits necessary therefor.

7.4 Title to Alterations. Tenant may but shall not be required to remove any alterations at the termination of the Lease Notwithstanding the provisions of this **Section 7.4**, Tenant’s furnishings, machinery and equipment, including that which is affixed to the Premises may but shall not be required to be removed by Tenant and any damage caused by such removal shall not be charged to Tenant. Tenant shall be solely responsible for the maintenance and repair of any and all alterations, additions or improvements made by Tenant to the Premises.

8. Mechanics’ Liens. Tenant shall keep the Premises and the Property free from any liens attributable to Tenant. If any such claim of lien is recorded, Tenant shall bond against or discharge the same within ten (10) days after the same has been recorded against the Premises or the Property. Tenant shall give Landlord notice of the date of commencement of any work in the Premises not less than ten (10) days prior thereto, and Landlord shall have the right to post notices of non-responsibility or similar notices in or on the Premises in connection therewith.

9. Utilities and Services. Tenant shall pay all charges for water, gas, electricity, telephone, refuse pickup, janitorial services, and all other utilities and services

supplied or furnished to the Premises during the Term of this Lease, together with any taxes thereon. In no event shall Landlord be liable to Tenant for any failure or interruption of utility service except to the extent caused by the active negligence or misconduct of Landlord. No failure or interruption of any such utilities or services shall entitle Tenant to terminate this Lease or to withhold rent or other sums due hereunder and unless otherwise specifically provided herein. Landlord shall not be responsible for providing security guards or other security protection for all or any portion of the Premises or the Property, and Tenant shall at its own expense provide or obtain such security services as Tenant shall desire to ensure the safety of the Premises and the Property.

10. Indemnity. Tenant hereby indemnifies Landlord and the Landlord Parties (collectively, the “**Indemnified Parties**”) and holds the Indemnified Parties harmless from and against any and all claims for damage, loss, expense or liability due to, but not limited to, bodily injury, including death, resulting at any time therefrom, and/or property damage, now or hereafter arising from any act, work or things done or permitted to be done or otherwise suffered, or any omission to act, in or about the Premises, by Tenant or by any of Tenant’s agents, employees, contractors, or invitees during the Term, or from any breach or default by Tenant in the performance of any obligation on the part of Tenant to be performed under the terms of this Lease, except to the extent such damage, loss, expense or liability is caused by the active negligence or willful misconduct of Landlord or its employees or agents. Tenant shall also indemnify Landlord from and against all damage, loss, expense (including without limitation, attorneys’ fees), and liability incurred or suffered by Landlord in the defense of any such claim or any action or proceeding brought thereon provided Tenant is found to be at fault and Landlord has not through its negligence or willful misconduct caused such damage, loss, expense or liability. In the event any action or proceeding shall be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend the same at Tenant’s expense by counsel reasonably satisfactory to Landlord. The obligations of Tenant contained in this paragraph shall survive the termination of this Lease.

11. Waiver of Claims. Tenant hereby waives any claims against Landlord for injury to Tenant’s business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, or for injury or death of Tenant’s agents, employees, invitees, or any other person in or about the Premises from any cause whatsoever, except to the extent caused by Landlord’s active negligence or willful misconduct.

12. Insurance.

12.1 Tenant’s Liability Insurance. Tenant shall, at Tenant’s expense, obtain and keep in force during the term of this Lease a policy of commercial general liability insurance insuring Landlord and Tenant against any liability arising out of the condition, use, occupancy or maintenance of the Premises. Such policy of insurance shall have a limit for bodily injury and property damage in an amount not less than One Million Dollars (\$1,000,000). The policy shall contain cross liability endorsements and shall insure performance by Tenant of the

indemnity provisions of **Section 10**. The limits of said insurance shall not, however, limit the liability of Tenant hereunder.

12.2 Tenant's Property Insurance. Tenant shall, at Tenant's sole expense, obtain and keep in force during the Term of this Lease, a policy of fire and extended coverage insurance including a standard "all risk" endorsement, and a sprinkler leakage endorsement (if the Premises shall be sprinklered), insuring the inventory, fixtures, equipment, personal property, and leasehold improvements and alterations of Tenant within the Premises for the full replacement value thereof, as the same may increase from time to time due to inflation or otherwise. The Landlord shall have no interest in the proceeds of such insurance.

12.3 Landlord's Liability Insurance. Landlord shall maintain a policy or policies of commercial general liability insurance insuring Landlord (and such other entities as may be designated by Landlord) against liability for personal injury, bodily injury or death and damage to property occurring or resulting from an occurrence in, on, or about the Property with liabilities limits as Landlord may determine in its sole discretion.

12.4 Property Insurance. Landlord shall obtain and keep in force during the Term of this Lease a policy or policies of insurance for the benefit of Landlord and Tenant covering loss or damage to the Building(s), but excluding coverage of merchandise, fixtures, equipment, and leasehold improvements of Tenant, which are not considered part of the real estate for insurance purposes, in the amount of the full replacement value thereof, providing protection against all risks of direct physical loss or damage (except the perils of flood and/or earthquake), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also permit the waiver of subrogation. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$50,000 per occurrence. All proceeds under such policies of insurance shall be payable to Landlord, and Tenant shall have no interest in or right to such proceeds.

12.5 Other Insurance. Tenant shall obtain worker's compensation and employer's liability or other similar insurance to the extent required by Applicable Laws.

12.6 Insurance Policies. The insurance required to be obtained by Tenant pursuant to **Sections 12.1** and **12.2** shall be primary insurance and (a) shall provide that the insurer shall be liable for the full amount of the loss up to and including the total amount of liability set forth in the declarations without the right of contribution from any other insurance coverage of Landlord, (b) shall be in a form satisfactory to Landlord, (c) shall be carried with companies reasonably acceptable to Landlord, and (d) shall specifically provide that such policies shall not be subject to cancellation, reduction of coverage or other change except after at least the insurance provider endeavors to provide thirty (30) days prior written notice to Landlord. The policy or policies, or duly executed certificates for them, together with satisfactory evidence of payment of the premium thereon, shall be deposited with Landlord on or prior to the Commencement Date, and upon each renewal of such policies, which shall be effected not less than, thirty (30) days prior to the expiration date of the term of such coverage. Tenant shall not

do or permit to be done anything which shall invalidate any of the insurance policies to be carried by Tenant or Landlord hereunder.

12.7 Waiver of Subrogation. Tenant and Landlord each hereby waives any and all rights of recovery against the other, or against the officers, employees, agents and representatives of the other, for loss of or damage to the property of the waiving party or the property of others under its control, where such loss or damage is insured against under any insurance policy carried by Landlord or Tenant and in force at the time of such loss or damage (or where such loss or damage would have been insured under an insurance policy required to be carried by Landlord or Tenant hereunder, if Landlord or Tenant had in fact carried such policy). Tenant and Landlord shall, upon obtaining the policies of insurance required hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

12.8 No Limitation of Liability. Landlord makes no representation that the limits of liability specified to be carried by Tenant or Landlord under the terms of this Lease are adequate to protect any party. If Tenant believes that the insurance coverage required under this Lease is insufficient to adequately protect Tenant, Tenant shall provide, at its own expense, such additional insurance as Tenant deems adequate.

13. Damage or Destruction.

13.1 Minor Damage. If the Premises or the Building(s), as the case may be, are damaged so that the repairs may be made within four (4) months (as reasonably determined by Landlord) after the occurrence of the casualty, then provided Landlord has not previously elected to terminate this Lease under Section 2.5, Landlord shall at Landlord's expense repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect.

13.2 Material Damage; Uninsured Damage. If at any time during the Term hereof the Premises or the Building(s) is damaged so that the damage cannot be repaired (as reasonably determined by Landlord) within four (4) months after the occurrence of the casualty, then Landlord may at Landlord's option either (a) repair such damage at Landlord's expense, in which event this Lease shall continue in full force and effect, or (b) give written notice of termination of this Lease to Tenant within thirty (30) days after the date of the occurrence of such damage, with the effective date of such termination to be the date of the occurrence of such damage. Notwithstanding the above, if the damage does not prohibit Tenant from utilizing the remaining portion of the Premises and Tenant desires to do so, then Tenant may remain on the Premises, provided it may do so without violating any Applicable Law relating to health and safety, until the Lease would otherwise terminate without regard to the damage. In such event, the rent shall be abated in proportion to the amount of the Premises which is not useable as a result of the damage.

13.3 Abatement of Rent. Notwithstanding anything to the contrary contained in this Section 13, if the Premises are partially damaged and Landlord repairs or

restores them pursuant to the provisions of this **Section 13**, the Base Rent payable hereunder for the period commencing on the occurrence of such damage and ending upon completion of such repair or restoration shall be abated in proportion to the extent to which Tenant's use of the Premises is impaired during the period of repair; provided that, nothing herein shall be construed to preclude Landlord from being entitled to collect the full amount of any rental loss insurance proceeds. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration other than for Landlord's active negligence or willful misconduct.

13.4 Waiver. Tenant waives the provisions of California Civil Code Sections 1932(2) and 1933(4), and any similar or successor statutes relating to termination of leases when the thing leased is substantially or entirely destroyed, and agrees that any such occurrence shall instead be governed by the terms of this Lease.

13.5 Tenant's Property. Landlord's obligation to rebuild or restore shall not include restoration of Tenant's trade fixtures, equipment, merchandise, or any improvements, alterations or additions made by Tenant to the Premises, except to the extent they have become a part of the Property pursuant to **Section 7.5** and Landlord receives insurance proceeds therefor.

13.6 Notice of Damage. Tenant shall notify Landlord within five (5) days after the occurrence thereof of any damage to all or any portion of the Premises. In no event shall Landlord have any obligation to repair or restore the Premises pursuant to this **Section 13** until a reasonable period of time after Landlord's receipt of notice from Tenant of the nature and scope of any damage to the Premises, and a reasonable period of time to collect insurance proceeds arising from such damage (unless such damage is clearly not covered by insurance then in effect covering the Premises).

13.7 Replacement Cost. The determination in good faith by Landlord of the estimated cost of repair of any damage, or of the replacement cost, shall be conclusive for purposes of this **Section 13**.

13.8 Tenant's Negligence. Notwithstanding anything in this **Section 13** to the contrary, Landlord shall not be required to repair any damage from a fire or other casualty if the damage arises from the negligence or willful misconduct of Tenant or any of Tenant's Parties.

14. [Intentionally omitted.]

15. Assignment and Subletting. Tenant shall not assign this Lease, or any interest therein, voluntarily or involuntarily, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of Tenant excepted) to occupy or use the Premises (by way of license, concession, or otherwise), or any portion thereof, without the prior written consent of Landlord in each instance pursuant to

the terms and conditions set forth below, which consent may be granted or withheld in Landlord's sole and absolute discretion.

15.1 Documentation. Prior to any assignment or sublease which Tenant desires to make, Tenant shall provide to Landlord the name and address of the proposed assignee or sublessee, and true and complete copies of all documents relating to Tenant's prospective agreement to assign or sublease, and shall specify all consideration to be received by Tenant for such assignment or sublease in the form of lump sum payments, installments of rent, or otherwise. For purposes of this **Section 15**, the term "**consideration**" shall include, without limitation, all monies or other consideration of any kind, including but not limited to, bonus money, and payments (in excess of book value thereof) for Tenant's assets, fixtures, inventory, accounts, good will, equipment, furniture, general intangibles, and any capital stock or other equity ownership of Tenant.

15.2 Terms and Conditions. Each assignment or sublease agreement to which Landlord has consented shall be an instrument in writing in form satisfactory to Landlord, and shall be executed by both Tenant and the assignee or sublessee, as the case may be. Each such assignment or sublease agreement shall recite that it is and shall be subject and subordinate to the provisions of this Lease, that the assignee or sublessee accepts such assignment or sublease and agrees to perform all of the obligations of Tenant hereunder (to the extent such obligations relate to the portion of the Premises assigned or subleased), and that the termination of this Lease shall, at Landlord's sole election, constitute a termination of every such assignment or sublease. In the event Landlord shall consent to an assignment or sublease, Tenant shall nonetheless remain primarily liable for all obligations and liabilities of Tenant under this Lease, including but not limited to the payment of rent. Tenant agrees to reimburse Landlord upon demand for reasonable attorneys' fees incurred by Landlord in connection with the negotiation, review, and documentation of any such requested assignment or sublease. Tenant hereby stipulates that the foregoing terms and conditions are reasonable.

15.3 Partnership or Limited Liability Company. If Tenant is a partnership or limited liability company, a transfer, voluntary or involuntary, of all or any part of an interest in the partnership or limited liability company, or the dissolution of the partnership or limited liability company, shall be deemed an assignment requiring Landlord's prior written consent.

15.4 Corporation. If Tenant is a corporation, any dissolution, merger, consolidation, or other reorganization of Tenant, or the transfer, either all at once or in a series of transfers, of a controlling percentage of the capital stock of Tenant, or the sale, or series of sales within any one (1) year period, of all or substantially all of Tenant's assets located in, on, or about the Premises, shall be deemed an assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty-one percent (51%) of the total combined voting power of all classes of Tenant's capital stock issued, outstanding, and entitled to vote for the election of directors. The provisions of this paragraph shall not apply to Tenant if Tenant is a corporation the stock of which is listed on a national securities exchange (as this term is used in the Securities Exchange Act of 1934, as amended), is publicly traded on the

over-the-counter market and prices therefor are published daily on business days in a recognized financial journal, or becomes subject to this provision by making an initial public offering.

15.5 Landlord's Remedies. Any assignment or sublease without Landlord's prior written consent shall at Landlord's election be void, and shall constitute a default. The consent by Landlord to any assignment or sublease shall not constitute a waiver of the provisions of this **Section 15**, including the requirement of Landlord's prior written consent, with respect to any subsequent assignment or sublease. If Tenant shall purport to assign this Lease or sublease all or any portion of the Premises, or permit any person or persons other than Tenant to occupy the Premises, without Landlord's prior written consent, Landlord may collect rent from the person or persons then or thereafter occupying the Premises and apply the net amount collected to the rent reserved herein, but no such collection shall be deemed a waiver of Landlord's rights and remedies under this Section 15 or the acceptance of any such purported assignee, sublessee or occupant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained.

15.6 Encumbrances, Licenses and Concession Agreements. Tenant shall not encumber its interest under this Lease or any rights of Tenant hereunder, or enter into any license or concession agreement respecting all or any portion of the Premises, without Landlord's prior written consent, and Tenant's granting of any such encumbrance, license, or concession agreement shall constitute an assignment for purposes of this **Section 15**.

16. Default by Tenant.

16.1 Event of Default. The occurrence of any one or more of the following events (an "**Event of Default**"), shall constitute a default and breach of this Lease by Tenant:

(a) The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant hereunder, as and when due after five (5) days prior written notice to Tenant;

(b) Tenant's failure to perform any other term, covenant or condition contained in this Lease and such failure shall have continued for twenty (20) days after written notice of such failure is given to Tenant; provided that, where such failure cannot reasonably be cured within said twenty (20) day period, Tenant shall not be in default if Tenant commences such cure within said twenty (20) day period, and thereafter diligently completes such cure within sixty (60) days;

(c) Tenant's failure to continuously and uninterruptedly conduct its business in the Premises for a period of more than thirty (30) consecutive days, or Tenant's removal of all or substantially all of its equipment and other possessions from the Premises, without in either case providing security protection for the Premises reasonably satisfactory to Landlord;

(d) Tenant's breach of Section 15 of this Lease;

(e) Tenant's assignment of its assets for the benefit of its creditors;

(f) The sequestration of, attachment of, or execution on, any substantial part of the property of Tenant or on any property essential to the conduct of Tenant's business on the Premises, and Tenant shall have failed to obtain a return or release on such property within sixty (60) days thereafter, or prior to sale pursuant to such sequestration, attachment or execution, whichever is earlier;

(g) An entry of any of the following orders by a court having jurisdiction, and such order shall have continued for a period of sixty (60) days: (1) an order for relief in any proceeding under Title 11 of the United States Code, or an order adjudicating Tenant to be bankrupt or insolvent; (2) an order appointing a receiver, trustee or assignee of Tenant's property in bankruptcy or any other proceeding; or (3) an order directing the winding up or liquidation of Tenant; or

(h) The filing of a petition to commence against Tenant an involuntary proceeding under Title 11 of the United States Code, and Tenant shall fail to cause such petition to be dismissed within sixty (60) days thereafter.

16.2 Remedies. Upon any Event of Default, Landlord shall have the following remedies, in addition to all other rights and remedies provided by law or equity:

(a) To the extent permitted by Applicable Law, Landlord shall be entitled to keep this Lease in full force and effect for so long as Landlord does not terminate Tenant's right to possession (whether or not Tenant shall have abandoned the Premises), and Landlord may enforce all of its rights and remedies under this Lease, including the right to recover rent and other sums as they become due under this Lease, plus interest at the lower of five percent (5%) per annum plus the discount rate of the Federal Reserve Bank of San Francisco, or the highest rate then allowed by law, from the due date of each installment of rent or other sum until paid; or

(b) Landlord may terminate the Tenant's right to possession by giving Tenant written notice of termination. On the giving of the notice, this Lease and all of Tenant's rights in the Premises shall terminate. Any termination under this paragraph shall not release Tenant from the payment of any sum then due Landlord or from any claim for damages or rent previously accrued or then accruing against Tenant.

In the event this Lease is terminated pursuant to this Section 16.2(b), Landlord may recover from Tenant:

(1) the worth at the time of award of the unpaid rent which had been earned at the time of termination; plus

(2) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss for the same period that Tenant proves could have been reasonably avoided; plus

(3) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided; plus

(4) any other amount necessary to compensate Landlord for all the detriment approximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award" of the amounts referred to in Subparagraphs (1) and (2) of this **Section 16.2(b)** shall be computed by allowing interest at the lower of five percent (5%) per annum plus the discount rate of the Federal Reserve Bank of San Francisco, or the maximum rate then permitted by law. The "worth at the time of award" of the amount referred to in Subparagraph (3) of this paragraph shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(c) This Lease may be terminated by a judgment specifically providing for termination, or by Landlord's delivery to Tenant of written notice specifically terminating this Lease. In no event shall any one or more of the following actions by Landlord, in the absence of a written election by Landlord to terminate this Lease, constitute a termination of this Lease or a waiver of Landlord's right to recover damages under this **Section 16**:

(1) appointment of a receiver in order to protect Landlord's interest hereunder;

(2) consent to any subletting of the Premises or assignment of this Lease by Tenant, whether pursuant to provisions hereof concerning subletting and assignment or otherwise; or

(3) any other action by Landlord or Landlord's agents intended to mitigate the adverse effects of any Event of Default of this Lease by Tenant, including without limitation any action taken to maintain and preserve the Premises, or any action taken to relet the Premises or any portion thereof for the account of Tenant and in the name of Tenant.

16.3 No Relief From Forfeiture After Default Tenant waives all rights of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, and under any other present or future law, in the event Tenant is evicted or Landlord otherwise lawfully takes possession of the Premises by reason of any Event of Default.

16.4 Landlord's Right to Perform Tenant's Obligations. If an Event of Default by Tenant shall occur hereunder, then Landlord may, but shall not be obligated to, make

such payment or perform such other act to the extent Landlord may deem desirable, and may, in connection therewith, pay any and all expenses incidental thereto and employ counsel. No such action by Landlord shall be deemed a waiver by Landlord of any rights or remedies Landlord may have as a result of such failure by Tenant, or a release of Tenant from performance of such obligation. All sums so paid by Landlord, including without limitation all penalties, interest and costs in connection therewith, shall be due and payable by Tenant to Landlord on the day immediately following any such payment by Landlord. Landlord shall have the same rights and remedies for the nonpayment of any such sums as Landlord may be entitled to in the case of default by Tenant in the payment of rent.

16.5 Interest on Past Due Obligations. Any amount due to Landlord hereunder not paid within three (3) days after Tenant's receipt of written notice of delinquency shall bear interest at the lower of five percent (5%) per annum plus the discount rate of the Federal Reserve Bank of San Francisco, or the highest rate then allowed by law, from the date due until paid in full. Payment of such interest shall not excuse or cure any default by Tenant under this Lease.

16.6 Additional Rent. All sums payable by Tenant to Landlord or to third parties under this Lease in addition to such sums payable pursuant to Section 3 hereof shall be payable as additional sums of rent. For purposes of any unlawful detainer action by Landlord against Tenant pursuant to California Code of Civil Procedure Sections 1161-1174, or any similar or successor statutes, Landlord shall be entitled to recover as rent not only such sums specified in Section 3 as may then be overdue, but also all such additional sums of rent as may then be overdue.

16.7 Remedies Not Exclusive. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies herein provided or permitted at law or in equity.

16.8 Notices. Tenant agrees that any notice given by Landlord pursuant to Section 16 of this Lease shall satisfy the requirements for notice under California Code of Civil Procedure Section 1161, and Landlord shall not be required to give any additional notice in order to be entitled to commence an unlawful detainer proceeding.

17. Default by Landlord.

17.1 Cure Period. Landlord shall not be deemed to be in default in the performance of any obligation required to be performed by it hereunder unless and until it has failed to perform such obligation within the period of time specifically provided herein, or if no period of time has been provided, then within thirty (30) days after receipt of written notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are reasonably required for its performance, then Landlord shall not be deemed to be in default if it

shall commence such performance within such thirty (30) day period and thereafter diligently prosecute the same to completion.

18. Advertisements and Signs. Tenant shall not place or permit to be placed any sign, display, advertisement, or decoration (collectively "sign") on the exterior of the Building(s) or elsewhere on the Property without the prior written consent of Landlord (which may be granted or withheld in its sole discretion) as to the color, size, style, character, content, and location of each such sign. Tenant shall at its sole expense comply with all codes, ordinances, regulations, and other requirements of the City of Redwood City or other applicable governmental authority relating to any sign Tenant places on or about the Premises. Upon termination of this Lease, Tenant shall remove all signs which it has placed on or about the Property, and shall repair any damage caused by the installation or removal of each such sign. Notwithstanding the above, Tenant shall have the right to leave any signs on the Premises that are there at the Commencement Date.

19. Entry by Landlord. Landlord and its agents shall be entitled to enter into and upon the Premises at all reasonable times, upon two (2) business days written notice to Tenant (except in the case of an emergency, in which event no notice shall be required), for purposes of inspecting or making repairs, alterations or additions to all or any portion thereof, or any other part of the Building(s), including the erection and maintenance of such scaffolding, canopies, fences and props as may be required, or for the purpose of posting notices of non-responsibility for alterations, additions, or repairs. Landlord's rights of entry as set forth in this paragraph shall be subject to the reasonable security regulations of Tenant. During any entry within Tenant's business hours, Landlord shall act in a manner designed to minimize interference with Tenant's business activities on the Premises.

20. Subordination and Attornment.

20.1 Subordination. Tenant agrees that this Lease may, at the option of Landlord, be subject and subordinate to any mortgage, deed of trust, or other instrument of security now of record or which is recorded after the date of this Lease affecting all or any portion of the Premises, and such subordination is hereby made effective without any further act of Tenant. Tenant shall execute and return to Landlord any documents required by the lender to accomplish the purposes of this paragraph, within seven (7) days after delivery thereof to Tenant, and the failure of Tenant to execute and return any such instruments shall constitute a default hereunder.

20.2 Attornment. Tenant shall attorn to any third party purchasing or otherwise acquiring the Premises at any sale or other proceeding, or pursuant to the exercise of any rights, powers or remedies under any mortgages or deeds of trust or ground leases now or hereafter encumbering all or any part of the Premises, as if such third party had been named as Landlord under this Lease.

21. Estoppel Certificates and Financial Statements. Tenant shall within seven (7) days following request by Landlord: (a) execute and deliver to Landlord any

documents, including estoppel certificates, in the form presented to Tenant by Landlord (1) certifying that this Lease has not been modified or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect; (2) stating the date to which the rent and other charges are paid in advance, if at all; (3) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or if there are uncured defaults on the part of Landlord, stating the nature of such uncured defaults; and (4) evidencing the status of this Lease as may be required either by a lender making a loan to Landlord to be secured by a deed of trust or mortgage encumbering the Premises or a purchaser of the Premises from Landlord; and (b) deliver to Landlord the current financial statements of Tenant with an opinion of a certified public accountant, if available, including a balance sheet and profit and loss statement for the then current fiscal year, and the two (2) immediately prior fiscal years (if available), all prepared in accordance with generally accepted accounting principles consistently applied. Tenant's failure to deliver any such documents, including an estoppel certificate, or any such financial statements within seven (7) days following such request shall be an Event of Default hereunder, provided that this Lease shall not be subordinate to any future mortgage, deed of trust, or other instrument of security unless the mortgagee, beneficiary, or other secured party executes an agreement with (and reasonably acceptable to) Tenant pursuant to which such party agrees to recognize Tenant's occupancy and honor the terms of this Lease so long as an Event of Default by Tenant does not occur hereunder.

22. Notices. All notices or demands which either party is required or desires to give to the other shall be given in writing by certified mail, return receipt requested with the appropriate postage paid, by personal delivery, by facsimile (provided receipt of a facsimile transmission is confirmed telephonically or otherwise) or by private overnight courier service to the address or facsimile number set forth below for the respective party, or such other address or facsimile number as either party may designate by written notice to the other. All such notices or demands shall be effective as of actual receipt or refusal of delivery. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day. Notices permitted or required to be given under this Lease shall be delivered to the applicable address or addresses set forth below, provided that either party may change such address by giving written notice to the other party as provided in this section:

If to Tenant: At the address of the Premises.

If to Landlord: City of Redwood City, 1017 Middlefield Road, Redwood City, CA 94063, Attention: City Manager;

With Copies to: City of Redwood City, 1017 Middlefield Road, Redwood City, CA 94063, Attention: City Attorney.

23. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition for any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not

be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No term, covenant or condition shall be deemed to have been waived by either party unless such waiver is in writing and signed by the party making such waiver.

24. No Accord and Satisfaction. No payment by Tenant, or receipt by Landlord, of an amount which is less than the full amount of rent and all other sums payable by Tenant hereunder at such time shall be deemed to be other than on account of (a) the earliest of such other sums due and payable, and thereafter (b) to the earliest rent due and payable hereunder. No endorsement or statement on any check or any letter accompanying any payment of rent or such other sums shall be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to receive payment of the balance of such rent and/or other sums, or Landlord's right to pursue any remedies to which Landlord may be entitled to recover such balance.

25. Attorneys' Fees. If any action or proceeding at law or in equity, or an arbitration proceeding (collectively an "**action**"), shall be brought to recover any rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants, or conditions of this Lease, or for the recovery of possession of the Premises, the prevailing party shall be entitled to recover from the other party as a part of such action, or in a separate action brought for that purpose, its reasonable attorneys' fees and costs and expenses incurred in connection with the prosecution or defense of such action. "**Prevailing Party**" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other is in breach or default, if such action is dismissed upon the other's payment of the sums allegedly due for performance of the covenants allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such action, whether or not, such action proceeds to a final judgment or determination.

26. Surrender. Upon the expiration or sooner termination of this Lease, Tenant shall at its sole cost and expense remove all debris and all personal property belonging to Tenant and surrender exclusive possession of the Premises to Landlord in substantially the same condition as of the Commencement Date (including any defects existing as of the Commencement Date, and further subject to reasonable wear and tear and damage arising from casualty or any taking of the Premises by any governmental authority). Any personal property not so removed shall be deemed abandoned, and Landlord may dispose of such personal property at Tenant's sole cost. Notwithstanding the above, Tenant's obligation regarding Hazardous Substances and indemnification relating to any contamination by Tenant or Tenant's Parties during the Term of the Lease shall survive termination. All keys to the Premises or any part thereof shall be surrendered to Landlord upon expiration or sooner termination of the Lease term.

27. Holding Over. This Lease shall terminate without further notice at the expiration of the Lease term. Any holding over by Tenant after expiration shall not constitute a renewal or extension of the Lease term or give Tenant any rights in or to the Premises unless otherwise expressly provided in this Lease. Any holding over after the expiration without the

express written consent of Landlord shall be construed to be a tenancy from month to month, at two hundred percent (200%) of the monthly Base Rent for the last month of the Lease term, and shall otherwise be on the terms and conditions herein specified insofar as applicable, unless otherwise mutually agreed in writing by the parties.

28. Transfer of Premises by Landlord. The term "Landlord" as used in this Lease, so far as the covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner at the time in question of the fee title to the Premises. In the event of any transfer of such fee title, the Landlord herein named (and in case of any subsequent transfer or conveyances, the then grantor) shall after the date of such transfer or conveyance be automatically freed and relieved of all liability with respect to performance of any obligations on the part of Landlord contained in this Lease thereafter to be performed; provided, that any funds in the hands of Landlord or the then grantor at the time of such transfer in which Tenant has an interest, shall be turned over to the grantee and provided further that grantee shall have assumed in writing all of Landlord's obligations to the extent accruing from and after the date of the transfer. The covenants and obligations contained in this Lease on the part of Landlord shall, subject to the foregoing, be binding upon each Landlord hereunder only during his or its respective period of ownership.

29. General Provisions.

29.1 Entire Agreement. This instrument, together with the exhibits attached hereto, contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by an agreement in writing signed by all of the parties hereto or their respective successors in interest. Any executed copy of this Lease shall be deemed an original for all purposes.

29.2 Time. Time is of the essence with respect to the performance of each and every provision of this Lease in which time of performance is a factor. All references to days contained in this Lease shall be deemed to mean calendar days unless otherwise specifically stated. The term "**business days**" means calendar days other than Saturdays, Sundays and holidays recognized by the State of California.

29.3 Captions. The captions and headings of the numbered paragraphs of this Lease are inserted solely for the convenience of the parties hereto, and are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

29.4 California Law. This Lease shall be construed and interpreted in accordance with the laws of the State of California. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Landlord or Tenant, and without reference to which party prepared this Lease.

29.5 Gender, Singular and Plural. When required by the context of this Lease, the neuter includes the masculine, the feminine, a partnership, a corporation, or a joint venture, and the singular shall include the plural.

29.6 Partial Invalidity. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall nonetheless continue in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

29.7 No Warranties. Any agreements, warranties or representations not expressly contained herein shall not bind either Landlord or Tenant, and Landlord and Tenant expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not expressly contained in this Lease.

29.8 Joint and Several Liability. If Tenant is more than one person or entity, each such person or entity shall be jointly and severally liable for the obligations of Tenant hereunder.

29.9 Binding on Successors. The covenants and conditions herein contained, subject to the provisions as to assignment, shall apply to and be binding upon the parties hereto and their respective heirs, executors, administrator, assigns, and other successors in interest.

29.10 Authority. The parties hereby represent and warrant that they have all necessary power and authority to execute and deliver this Lease on behalf of Landlord and Tenant, respectively.

29.11 Memorandum of Lease. Neither Landlord nor Tenant shall record this Lease or a short form memorandum hereof without the prior written consent of the other.

29.12 Merger. The voluntary or other surrender of this Lease, or a mutual cancellation thereof, shall not work an automatic merger, but shall, at the sole option of Landlord, either terminate all or any existing subleases or subtenancies, or operate as an assignment to Landlord of any or all of such subleases or subtenancies.

29.13 Force Majeure. Any prevention of or delay in the performance by a party hereto of its obligations under this Lease caused by inclement weather, labor disputes (including strikes and lockouts), inability to obtain materials or reasonable substitutes therefor, governmental restrictions, regulations, controls, action or inaction, civil commotion, fire or other causes beyond the reasonable control of the party obligated to perform (except financial inability), shall excuse the performance by such party of its obligations hereunder (except the obligation of Tenant to pay rent and other sums hereunder) for a period of one day for each such day of delay.

29.14 Advice of Advisors. Each party to this Lease acknowledges and agrees that it has obtained and relied upon its own legal counsel and other advisors to evaluate the tax, accounting and legal consequences of entering into this Lease and consummating the transactions contemplated hereby, and, except as set forth in this Lease, neither party is relying on any representations or warranties of the other party to this Lease.

30. Relocation Assistance.

30.1 Waiver of Relocation Assistance. Tenant acknowledges and agrees that Tenant has received the sum of Five Hundred Thousand Dollars (\$500,000) (the “**Relocation Compensation**”) to cover all of Tenant’s costs to relocate its business to another location and for disruption all its business and that such amount constitutes full and complete satisfaction of any obligation Landlord may have for providing relocation assistance to Tenant and paying its relocation costs, if any, required to comply with all applicable federal, state and local laws, rules and regulations arising out of, based upon, or relating to, relocation assistance or benefits owing under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Section 4601 et seq., and the California Relocation Act, Govt. Code Section 7260 et seq., and its implementing regulations, 25 Cal. Code Regs. Section 6000 et seq. or under any other federal, state or local relocation statutes, regulations or guidelines, including but not limited to, any such regulations or guidelines of the City of Redwood City or the County of San Mateo (collectively, “**Relocation Benefits**”). Accordingly, Tenant, for itself and for its agents, successors, assigns, fully releases, acquits and discharges Landlord and its officers, officials, members, directors, council members, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (collectively, the “**Released Parties**”), from all suits, causes of action, claims, liabilities, damages, losses, fees, fines, costs and expenses including attorneys’ and experts’ fees (collectively, “**Claims**”) that Tenant, or any of them, has or may have against the Released Parties for all Relocation Benefits arising out of or related to Landlord’s acquisition of the Property, this Lease, the termination of this Lease for any reason, any taking of the Property under power of eminent domain, and/or the displacement of Tenant from the Property.

30.2 Waiver of Property Rights and Interests. Tenant for itself and for its agents, successors and assigns fully releases, acquits and discharges Landlord and the Released Parties from all Claims that Tenant, its agents, successors and assigns has or may have against the Released Parties arising out of or related to Landlord’s acquisition of the Property, the termination of this Lease, and/or the displacement of Tenant from the Property including, without limitation, all of Tenant’s property rights and interests in the Property, including but not limited to (i) all leasehold interests and rights of tenancy or occupancy, (ii) all improvements, including improvements pertaining to the realty, furniture, fixture, and equipment, (iii) business goodwill and lost income (past or future) relating to the Property, (iv) Tenant’s failure to locate a suitable replacement location, (v) lost rental income or sublease or license income, (vi) severance damages and pre-condemnation damages, if any, (vii) economic or consequential damages, (viii) professional consultant fees, attorney’s fees and costs, expert witness fees and costs, interest, and (ix) all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Tenant, its agents,

successors and assigns by reason of Landlord's acquisition of the Property, this Lease, the termination of this Lease for any reason, any taking of the Property under power of eminent domain, and/or the displacement of Tenant from the Property.

30.3 Waiver of Civil Code Section 1542. Tenant, on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("**Section 1542**"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "**Similar Provision**"). Thus, Tenant and its agents, successors and assigns, and any business, enterprise, or venture in which they are involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters Released in Section 30.1 or Section 30.2 above. Section 1542 provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Tenant's Initials: _____

Indemnification. Tenant acknowledges that Landlord is relying on Tenant's covenants that pursuant to this Lease there are and shall be no tenants or occupants of the Property other than Tenant. In the event that Tenant breaches such covenants with respect to the existence of other occupants or lessees of the Property, then without limiting Landlord's recourse for Tenant's breach of such representations and warranties, if such other tenants or occupants shall be entitled to Relocation Benefits, Tenant shall have the sole and exclusive responsibility for providing all such Relocation Benefits and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations and satisfying all Claims of such parties. Tenant hereby agrees to indemnify, defend, protect and hold the Released Parties harmless from and against any Claims asserted against or sustained by the Released Parties arising from the presence or claims of any tenants or occupants of the Property (other than Tenant) or any third party who has been granted an interest in the Property by or through Tenant, including without limitation claims for Relocation Benefits and inverse condemnation.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the dates specified below immediately adjacent to their respective signatures. Delivery of this Lease to Landlord, duly executed by Tenant, constitutes an offer by Tenant to lease the Premises as herein set forth, and under no circumstances shall such delivery be deemed to create an option or reservation to lease the Premises for the benefit of Tenant. This Lease shall only become effective and binding upon execution of this Lease by Landlord and delivery of a signed copy to Tenant.

LANDLORD:

CITY OF REDWOOD CITY,

a charter city and municipal corporation of the State of California

By: _____

Name: _____

Its: _____

Dated: _____

ATTEST:

Silvia Vonderlinden, City Clerk

TENANT:

GENERAL HARDWARE AND BUILDERS SUPPLY, INC.,

a California corporation

By: _____

Name: _____

Its: _____

Dated: _____

EXHIBIT A

PROPERTY DESCRIPTION

LEGAL DESCRIPTION

Real property in the City of Redwood City, County of San Mateo, State of California, described as follows:

LOT 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED "WOODHOUSE INDUSTRIAL PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, STATE OF CALIFORNIA, ON JUNE 17, 1966 IN BOOK 65 OF MAPS AT PAGE(S) 3.

APN: 052-392-190-6
JPN: 052-039-392-19A

EXHIBIT B

RULES AND REGULATIONS

Tenant shall comply with the following rules and regulations (as modified or supplemented from time to time, the "**Rules and Regulations**"). Landlord shall not be responsible to Tenant for the nonperformance of any of the Rules and Regulations by any other tenants or occupants of the Property. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Upon the expiration or earlier termination of the Lease, Tenant shall deliver to Landlord all keys and passes for offices, rooms, parking lot and toilet rooms which shall have been furnished Tenant. If the keys so furnished are lost, Tenant shall pay Landlord therefor.

2. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

3. Tenant shall not throw anything out of doors, windows or skylights or down passageways.

4. The Premises shall not be used for lodging, for living quarters or sleeping apartments, or for any improper, objectionable or immoral purposes.

5. The Premises shall not be used for manufacturing or for the storage of merchandise except to the extent such storage may be incidental to the Permitted Use. Tenant shall not occupy the Premises as an office for a messenger-type operation or dispatch office, public stenographer or typist, or for the manufacture or sale of liquor, narcotics or tobacco, or as a medical office, a barber or manicure shop, or an employment bureau, without Landlord's prior written consent. Tenant shall not engage or pay any employees in the Premises except those actually working for Tenant in the Premises, nor advertise for laborers giving an address at the Premises.

6. Landlord reserves the right to exclude from the Property any person who, in Landlord's judgment, is intoxicated or under the influence of liquor or drugs, or who violates any of these Rules and Regulations.

7. Intentionally omitted

8. Tenant shall store all its trash and garbage inside the Premises. No material shall be placed in the trash or garbage receptacles if, under applicable Law, it may not be disposed of in the ordinary and customary manner of disposing of trash and garbage in the vicinity of the Building(s).

9. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by any governmental agency.

10. Tenant must comply with requests by Landlord concerning the informing of their employees of items of importance to the Landlord.

11. Tenant must comply with the State of California "No-Smoking" law set forth in California Labor Code Section 6404.5 and with any local "No-Smoking" ordinance that may be in effect from time to time and is not superseded by such law

12. Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises or the Property. Tenant assumes all responsibility for the protection of Tenant and its agents, employees, contractors and invitees, and the property thereof, from acts of third parties, including responsibility for keeping doors locked and other means of entry to the Premises closed, whether or not Landlord, at its option, elects to provide security protection for any portion of the Property. Tenant further assumes the risk that any safety or security device, service or program that Landlord elects, in its sole and absolute discretion, to provide may not be effective, or may malfunction or be circumvented by an unauthorized third party, and Tenant shall, in addition to its other insurance obligations under this Lease, obtain its own insurance coverage to the extent Tenant desires protection against losses resulting from such occurrences. Tenant shall cooperate in any reasonable safety or security program developed by Landlord or required by Law.

13. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without Landlord's prior written consent

EXHIBIT C

HAZARDOUS SUBSTANCES DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Substances Disclosure Certificate is necessary for the Landlord to evaluate your proposed uses of the premises (the "**Premises**") and to determine whether to enter into a lease agreement with you as tenant. If a lease agreement is signed by you and the Landlord (the "**Lease Agreement**"), on an annual basis in accordance with the provisions of Section 4.4(f) of the Lease Agreement, you are to provide an update to the information initially provided by you in this certificate. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to the Landlord at the address set forth in the Lease Agreement:

Name of (Prospective) Tenant: _____

Mailing Address: _____

Contact Person, Title and Telephone Number(s): _____

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s):

Address of (Prospective) Premises: _____

Length of (Prospective) initial Term: _____

1. GENERAL INFORMATION:

Describe the proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled, and services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

2. USE, STORAGE AND DISPOSAL OF HAZARDOUS SUBSTANCES

- 2.1 Will any Hazardous Substances (as hereinafter defined) be used, generated, treated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Substances which continue to be used, generated, treated, stored or disposed of in, on or about the Premises

Wastes Yes ☐ No ☐

Chemical Products Yes ☐ No ☐

Other Yes ☐ No ☐

If Yes is marked, please explain: _____

- 2.2 If Yes is marked in Section 2.1, attach a list of any Hazardous Substances to be used, generated, treated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Substances to be present on or about the Premises at any given time; estimated annual throughput; the proposed location(s) and method of storage (excluding nominal amounts of ordinary household cleaners and janitorial supplies which are not regulated by any Environmental Laws, as hereinafter defined); and the proposed location(s) and method(s) of treatment or disposal for each Hazardous Substance, including, the estimated frequency, and the proposed contractors or subcontractors. Existing tenants should attach a list setting forth the information requested above and such list should include actual data from on-going operations and the identification of any variations in such information from the prior year's certificate.

3. STORAGE TANKS AND SUMPS

Is any above or below ground storage or treatment of gasoline, diesel, petroleum, or other Hazardous Substances in tanks or sumps proposed in, on or about the Premises? Existing tenants should describe any such actual or proposed activities.

Yes ☐ No ☐

If yes, please explain: _____

4. WASTE MANAGEMENT

- 4.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number? Existing tenants should describe any additional identification numbers issued since the previous certificate.

Yes ☐ No ☐

- 4.2 Has your company filed a biennial or quarterly reports as a hazardous waste generator? Existing tenants should describe any new reports filed.

Yes ☐ No ☐

If yes, attach a copy of the most recent report filed.

5. WASTEWATER TREATMENT AND DISCHARGE

5.1 Will your company discharge wastewater or other wastes to:

_____ storm drain? _____ sewer?
_____ surface water? _____ no wastewater or other wastes discharged.

Existing tenants should indicate any actual discharges. If so, describe the nature of any proposed or actual discharge(s).

5.2 Will any such wastewater or waste be treated before discharge?

Yes ☐ No ☐

If yes, describe the type of treatment proposed to be conducted. Existing tenants should describe the actual treatment conducted.

6. AIR DISCHARGES

6.1 Do you plan for any air filtration systems or stacks to be used in your company's operations in, on or about the Premises that will discharge into the air; and will such air emissions be monitored? Existing tenants should indicate whether or not there are any such air filtration systems or stacks in use in, on or about the Premises which discharge into the air and whether such air emissions are being monitored.

Yes ☐ No ☐

If yes, please explain: _____

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

_____ Spray booth(s) _____ Incinerator(s)
_____ Dip tank(s) _____ Other (Please describe)

_____ Drying oven(s) _____ No Equipment Requiring Air Permits

If yes, please explain: _____

- 6.3 Please describe (and submit copies of with this Hazardous Substances Disclosure Certificate) any reports you have filed in the past thirty-six months with any governmental or quasi-governmental agencies or authorities related to air discharges or clean air requirements and any such reports which have been issued during such period by any such agencies or authorities with respect to you or your business operations.

7. HAZARDOUS SUBSTANCES DISCLOSURES

- 7.1 Has your company prepared or will it be required to prepare a Hazardous Substances management plan ("**Management Plan**") or Hazardous Substances Business Plan and Inventory ("**Business Plan**") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes ☐ No ☐

If yes, attach a copy of the Management Plan or Business Plan. Existing tenants should attach a copy of any required updates to the Management Plan or Business Plan.

- 7.2 Are any of the Hazardous Substances, and in particular chemicals, proposed to be used in your operations in, on or about the Premises listed or regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Substances being so used which are listed or regulated under Proposition 65.

Yes ☐ No ☐

If yes, please explain: _____

8. ENFORCEMENT ACTIONS AND COMPLAINTS

- 8.1 With respect to Hazardous Substances or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes ☐ No ☐

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered to Landlord pursuant to the provisions of Section 4.4(f) of the Lease Agreement.

- 8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes ☐ No ☐

If yes, describe any such lawsuits and attach copies of the complaint(s), cross-complaint(s), pleadings and other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross-complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Section 4.4(f) of the Lease Agreement.

- 8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises and the current status of any such problems or complaints.

Yes ☐ No ☐

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement and the current status of any such problems or complaints.

9. PERMITS AND LICENSES

Attach copies of all permits and licenses issued to your company with respect to its proposed operations in, on or about the Premises, including, without limitation, any Hazardous Substances permits, wastewater discharge permits, air emissions permits, and use permits or approvals.

Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

As used herein, "Hazardous Substances" and "Environmental Laws" shall have the meanings given to such terms in the Lease Agreement.

The undersigned hereby acknowledges and agrees that this Hazardous Substances Disclosure Certificate is being delivered to Landlord in connection with the evaluation of a Lease Agreement and, if such Lease Agreement is executed, will be attached thereto as an exhibit. The undersigned further acknowledges and agrees that if such Lease Agreement is executed, this Hazardous Substances Disclosure Certificate will be updated from time to time in accordance with the Lease Agreement. The undersigned further acknowledges and agrees that the Landlord and its partners, lenders and representatives may rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the Term of the Lease Agreement.

Tenant hereby certifies, represents and warrants that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:

By: _____

Title: _____

Schedule 12(d)

Hazardous Materials Disclosure

Owner discloses to Optionee that the Real Property is located within 2,000 feet from the real property commonly known as 70 Chemical Way, Redwood City, California (the “**Adjacent Property**”). The Adjacent Property is the subject of on-going groundwater monitoring under the oversight of the Regional Water Quality Control Board, San Francisco Region. As provided in **Paragraph 10(b)** of this Agreement, within three (3) days after the Execution Date Owner shall provide Optionee with copies of the documentation, if any, in its possession describing the scope of contamination at the Adjacent Property (including the types and quantities of Hazardous Materials).